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Civil Government of Ohio

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The Nation and the State

Civil Government of Ohio

BY

FRANK H. H. ROBERTS, A.M.

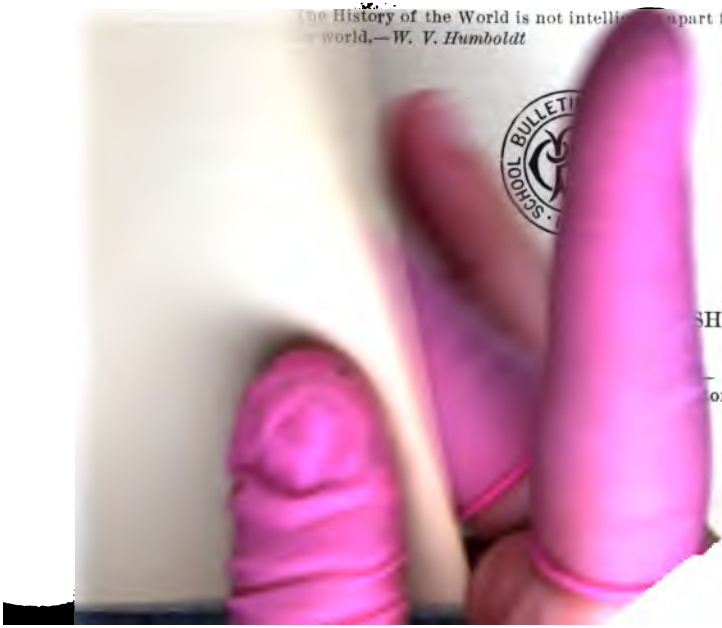
Principal of the Wyoming State Normal, Laramie, Wyoming, and author of "Civil Government of Wyoming"

WITH AN INTRODUCTION BY

GRACE RAYMOND HEBARD, PH.D.

Trustee of the University of Wyoming

Around I see
The powers that be;
I stand by Empire's primal springs,
And princes meet
In every street
And hear the tread of uncrowned kings.
—*Whittier*



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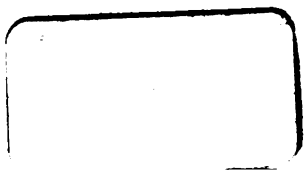

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with the contents and purposes of this constitution is an obligation which devolves upon every one and necessarily goes hand in hand with good citizenship, for upon good citizenship depends good government. The strength of a constitution depends upon the virtue and intelligence of the people; no government can be better than the people to be governed. Good citizenship rests upon a thorough knowledge of the needs of the governed, of the remedies for existing evils, and upon the enforcement of rights as presented in national, state, and municipal constitutions. It is the purpose of this book to assist in this higher civilization by clearly pointing out the essentials of your constitution and by explaining those portions which seem to be of vital importance.

GRACE RAYMOND HEBARD.
University of Wyoming, Laramie.

THE LABORATORY METHOD IN CIVIL GOVERNMENT

FOR TEACHER AND PUPIL

Thring very pointedly says: "You never forget a thing you do, cricket for instance, or even the sitting in school. It is part of your life. But your book-work is not part of your life. Make it so. You cannot drop what hand, foot, eye, or brain have really done, it is a part of yourself belonging to hand, foot, eye, or brain, but your book-work is shadow-work, a parrot-like struggle with words."

The mistake of depending wholly upon the text-book is too commonly made. Teacher and pupil fail to realize that abundant material to make this study real, a part of their lives, is at hand. It does not occur to them that civil government may be studied objectively; that it may become a matter of "hand, foot, eye, or brain". This study is usually considered hard, dry and uninteresting, but if advantage is taken of the opportunities presented on every hand it will be found to be fascinating, rich in thought-producing power, a study "that will not let us sleep."

The aim of the average student of this study is to remember the words of the book; to him Civics is words, words, nothing but words.

Before he begins his work he should commit these wise and truthful sentences from Thring's Theory and Practice of Teaching:

"Memory-knowledge as such is absolutely useless.

"Memory-knowledge as training is worse than useless.

"Memory-knowledge is often a disguise for mental incapacity.

"Dead lumps of memory are dead.

"Mind is known by what it puts out. Memory by what it casts in."

What can be done to change the class from dull listlessness, from the dead grind, to the living, inspiring reality? The answer is found in the experiences of a certain class.

When the class studies about primaries, conventions, elections, etc., primaries and conventions are organized and all the business of these organizations is transacted. The extent of the powers of the different conventions varies in the political communities; but in all, their chief purpose is to choose delegates to a higher convention and nominate candidates. The class easily learns from some politician what is done at a primary or convention, and when it is held by the pupils the facts are fastened so permanently in the mind that they are never forgotten. A new interest in the study of government is awakened.

The chairman and secretary of the national, state, and county executive committees are appointed. The national committee holds a meeting and issues a call for the holding of conventions in the various states to choose delegates to the national convention. Then the state committee holds its meeting and issues a call to the counties to choose delegates to the state convention, and then the county committee holds its session

and issues a call to the smallest political divisions (towns, wards, etc.) to hold primaries to choose delegates to the county convention.

Then the primary is held, and all the business transacted in this particular community by a political party is brought before it. Each member of the class participates as a citizen.

When the county convention is held each pupil is a delegate from some precinct or other political division. If there are more precincts than pupils, each pupil is considered the chairman of a delegation and casts the whole vote of his precinct, two or more of the smaller precincts being combined and assigned to one pupil. But if the number of pupils exceeds the number of precincts several pupils represent the larger division. Delegates to the state convention are chosen, and any other business that would come before a regular convention is the county is transacted.

In the state convention students representing counties choose delegates to the national convention, nominate candidates for electors, and perform any other acts that would properly come before the regular convention of the states.

In like manner the states are allotted to the students who hold the national convention.

Two tickets are nominated in these conventions, and an election is held according to the laws of the state; with this exception, suffrage is limited to the students of the schools.

Without being set any tasks to remember, these students have learned a great deal that is of real value to them. During these conventions questions of eligi-

bility, of parliamentary law, of right and wrong, are thoroughly discussed. Many a real convention is not half so exciting as these the pupils hold.

In studying the powers of congress, a copy of the tariff law, a custom house receipt, a tax receipt, naturalization papers, certificates of copyright, patent papers, passports, etc., aid the teacher and the pupil to understand what the book means. If the original papers can not be had, blanks may be obtained by writing to the proper officers.

When they studied naturalization one member of the class was appointed judge of the proper court; another clerk; and a third was considered a foreigner and required to take all the steps of naturalization. Naturalization became a live, real subject to the class. One hundred and twenty questions were asked by the members of the class, books were read, and the difficult phases of naturalization were intelligently discussed.

The amount of this work done must depend on the time and circumstances surrounding the class. Yet one period a week during a term will be sufficient time to accomplish much more than is suggested here. Thus may pupil and teacher live in their work, be interested in it, and master it.

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CIVIL GOVERNMENT OF OHIO

CHAPTER I

DEFINITIONS AND FORMS OF GOVERNMENT

Government.—The government of a State or country is the organization that is invested with supreme power. Its functions are to make, interpret and execute the laws. All governmental acts may be classed under three heads—legislative, executive, and judicial.

These functions may be exercised by one man or body of men, or they may be divided among several bodies.

The popular opinion holds that the American government has these three functions or powers apportioned among the three departments—legislative, executive, and judicial—which are separate and distinct from one another, while in fact each department exercises either kind of power,—an absolute separation is an impossibility.

Each department checks the other two. The president with the veto power offers a check to hasty legislation.

The power of congress in matters pertaining to the duties of officers, to the fixing of their salaries, and to the right of impeachment puts a restraint upon the

executive and the judiciary. By its right to inquire into the manner in which the officers of the executive department discharge their duties and its power to determine the constitutionality and meaning of a law, the judicial department restrains the others.

But neither department possesses coercive power over the others. Each department is free within constitutional limits.

Theoretically the government of England consists of three departments: the king as chief executive; parliament consisting of two houses, house of commons and house of lords; and the judiciary; but practically it has but one governmental body, the house of commons. At the *dictation* of the commons, the king chooses the leader of the dominant party as prime minister, who then selects his cabinet from his own party.

These officers who perform executive acts are responsible to the majority of the house of commons.

When they no longer have the confidence of the majority as shown by vote of the members they may resign or dissolve parliament, and call a new election. If the new commons will not pass a resolution of confidence or approval, they must resign; hence the real executive is subordinate to the popular branch of the legislative department.

The house of commons exercises coercive power over the house of lords.

When the lords show a disposition to refuse to pass a measure, the commons may, through the prime minister, threaten to create more peers, or to abolish the house of lords entirely, and the lords for self protec-

tion, will pass the measure. The courts have no power to declare a law unconstitutional, for the house of commons is omnipotent, "The whole fulness of popular power dwells in it, its will is law." It must be remembered that this is the spirit rather than the legal form of the English government. [See Bryce's American Commonwealth, page 272 ff.]

There is a distinction between the government and the people which, in many countries, is readily observed, but in our own many writers and public speakers have failed to see this difference. The people can amend the constitution or change the form of the government at will—they are the real sovereigns who delegate the right to rule to their creature, the government.

Government is either civil or military. The earlier governments were military, the ruler enforcing his rule by force of arms. As the citizens of a country gain power, the government loses some of its military character. When the military is put into complete subordination to the part of the government that represents the people, the government becomes civil, or government by the people.

Science of civil government.—The science of civil government is the orderly statement of the principles of constitutional government, and the workings of its institutions.

Institutions.—The institutions of a country are its laws and customs.

THE THREE DEPARTMENTS

While it is popularly held that the three departments of our governments—state and national—are separate

and distinct and many of the state constitutions have declared that an officer of one department should not exercise any of the powers of either of the other departments, there is not a state in the union that does not have a mixed form of government, officers exercising powers of two or three departments as they do in the national government.

Even county officers frequently have duties in all departments.

The legislative power makes or enacts laws. The executive puts them into operation. The judiciary determines their meaning and extent.

Legislative	*Executive*	*Judicial*
The following are legislative acts: Levying taxes. Appropriating money. Declaring war. Determining the duties of the officers of the government. Fixing salaries. Ordering buildings to be built, soldiers to be enlisted, harbors to be dredged, and ships to be constructed. The granting of public franchises, and the exercising of the right of eminent domain.	These are executive acts: Collecting taxes. Taking care of the money. Paying it out on order of legislature. Enlisting soldiers and sailors. Equipping and directing the army and navy or militia. Making international improvements that have been ordered by the legislative body.	The judiciary answers the questions: What is the law? What does the law mean? Does it conform to the constitution? Has the law been properly executed by the executive officers?

KINDS OF GOVERNMENTS

Aristotle's "Politics" divides governments into two classes. Those governments which consider the best interests of their country are called true or normal; while those that rule in their own interests are called perversions.

The Normal Government	*Corresponding Perversion*
1. The kingship or monarchy.	1. Tyranny or despotism.
2. The aristocracy.	2. Oligarchy.
3. The polity, the rule of the majority.	3. Democracy.

When Aristotle wrote his "Politics" the democracy of Athens had become so corrupt that he uses the term polity for the rule of the majority, when exercised in the interest of the people; and applies the term democracy to the perversion of majority rule. But now democracy is used instead of polity and its perversion is called ochlocracy and even anarchy.

The modern divisions are:—monarchy, democracy, and republic.

These like the divisions of Aristotle are incomplete, since there are states that do not come under any of these forms.

States are like the oaks, they grow, they flourish in the worst of storms, they decline, they die and are forgotten; a set of terms that accurately describes their condition or character during any age of their history is inadequate in any other age because the conditions have changed.

In 1790 Mirabeau declared, "In a certain sense republics are monarchical, and again in a certain sense monarchies are republics."

In 1814 Schleiermacher maintained that "the terms, monarchy, aristocracy, and democracy are always running into each other."

The student of political history must remember that the terms employed in any period may be used during any other period with widely differing meanings. Even during one year the same word may be used by leaders of different parties with distinctly

opposite meanings. Two quotations will suffice to prove this last proposition.

Chauncy M. Depew in a private letter written at the close of the campaign of 1900 said, "In practical politics, imperialism and expansion are synonomous terms," while William J. Bryan in his Indianapolis speech declared that, "Our opponents, conscious of the weakness of their cause, seek to confuse imperialism with expansion."

The following terms are proposed as more nearly expressing the present facts of government than those that have the sanction of historical use:

1. Hereditary, a government in which the chief officers are reserved for those of noble birth; e. g., Russia.

2. Elective, the rule of men who have been elected to office; e. g., United States.

3. Mixed, a state in which some of the offices are filled by election and some by birth. England is an excellent example of this form; there the kingship and membership in the house of lords are hereditary, while membership in the house of commons is secured by election.

At present, monarchical, aristocratical, and democratical are terms that describe the spirit rather than the form of a government. Governments are pendulums making irregular vibrations through the arc,—monarchy, aristocracy, democracy, and anarchy.

The government of France swung through the entire arc from the time of Louis XIV, who declared himself to be the state, to the Reign of Terror, a period covering less than a century, and has been

making fitful and irregular vibrations toward the extremes of the arc to the present time.

In its history our government has made swings between anarchy, represented by the extreme states-rights doctrine, and monarchy, represented by extreme nationalism, but neither extreme has ever prevailed and it now swings along an aristocratical-democratical arc. These terms are used in their best sense; the aristocratical tendencies are seen in the conservatism of the American voter. Often the minority has been allowed to govern. Historians are agreed that the federalist party was always the smaller party; because of the American voters, conservative nature it was allowed to govern the country until 1801. There is no doubt that a majority of the voters of 1896 were in favor of a "free and unlimited coinage of silver at the ratio of 16 to 1", yet a sufficient number hesitated and finally because of their distrust of untried measures supported and elected the gold standard candidate. The conservatism of the American voter is apparent throughout our history.

Another evidence of aristocratical tendencies can be found in the educational qualifications required in many states.

The democratical tendencies are seen in the extension of suffrage to women, the growing use of the referendum in matters of taxation, and the increasing influence of public opinion on legislative acts.

Many writers would accept the statement made above, but would apply to the expression "aristocratical-democratical" its very worst meaning and believe it true.

A monarchy is a government in which the supreme power is vested in one person, whose will is law, who is the chief executive officer, and the highest judge of the land. Russia, China, and Turkey are real monarchies. The rulers of many of the ancient monarchies have been deprived of much of their power and the countries they rule are called limited monarchies. England was a true monarchy in the eleventh and twelfth centuries, but in 1215 the monarch was compelled to surrender part of his power, and at different periods other rights were wrested from him until to-day England is a democratic-monarchy.

But the spirit of monarchy may be exercised by the government in a republic. James Madison wrote in the Federalist, "The accumulation of all powers legislative, executive, and judiciary in the hands, whether of one, a few, or many and whether hereditary, self-appointed or elective, may justly be pronounced the very definition of tyranny," which is the perversion of monarchy.

While France has an elective presidency, "the citizens considered as individuals, have no sort of security against possible excess of the administration towards them; it has been and may again become an instrument of despotism." Here is the true monarchical spirit.

A republic is a government in which the chief executive is chosen by electors, who are composed in some states of all the people, and in others, of a selected few. In America the chief executive has been called president, governor, etc., while in European republics he has been called president, doge,

gonfalonier and even king. In Florence the term of office was two months; and in Sparta, which was an aristocratic republic, the two elected kings served for life.

That a government is said to be republican in form is no evidence of the freedom of the people. There are many modern republics that concede but a vestige of freedom to the subjects.

No one has understood this fact better than Mr. Madison, who wrote as follows: "Holland, in which no particle of the supreme power is derived from the people, has passed almost universally under the domination of a republic. The same title has been bestowed upon Venice, where absolute power over the great body of the people is exercised in the most absolute manner by a small body of hereditary nobles."

He defines a republic as "a government which derives all its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior."

A democracy is usually defined as a government by the people, or one in which the people perform all the functions of government. If this definition is true, no democracy ever existed or ever will; it is a principle, rather than a kind, of government. In the early history of governments, petty states were governed by chiefs or kings who were supposed to rule by divine right, but when democratic principles began to prevail this idea was displaced by the doctrine that the most powerful and influential should rule; but in the complete triumph of democracy it is held that rulers ob-

tain their right to govern by the suffrage of the people. In the present democracies, the people make the laws but leave their execution to some selected officer. This is true of the New England "town meeting", where all the citizens of a township meet to discuss and vote upon questions of taxation, schools, roads, the care of the poor, and any other subject of local interest, but they leave the execution of their sovereign will to officers elected by them at this meeting. In any democratic country, slavery cannot exist; imprisonment for debt and the restriction of suffrage for any reason other than crime are impossible. Since Athens, in her boasted age of democracy, had 20,000 voters and 400,000 slaves, she was only an aristocracy, governed by Pericles, king by common consent, although not holding the title. A government in which all the people choose representatives to carry out their will as repressed in their platforms is a representative democracy.

Those states, Wyoming, Idaho, Colorado, and Utah, that have extended the right of suffrage to women, have done so, believing that the true principles of democracy demanded the concession.

These are the most democratic states of the union.

Oligarchy.—An oligarchy is a government in which the eligibility to office is restricted to a few, who may be the best or the worst citizens. When the best rule the state, the government is called an Aristocracy. In ordinary language an aristocracy is a country ruled by the rich without regard to other qualifications; historically such a government is called a Timocracy.

Empire.—An empire is a government including

subordinate governments within its territory. The German empire is composed of kingdoms, principalities and republics. Washington and Jefferson called the United States an empire.

In 1787, 285 officers of the Continental army petitioned congress to establish a government for the north-west territory that they might render "it of lofty consequence to the *American Empire.*"

"No constitution was ever before so well calculated, as ours, for extensive empire and self-government." —*Jefferson* to *President Madison* in 1809.

"The fabric of *American Empire* ought to rest on the solid basis of *the consent of the people.*"—*Hamilton* in the *Federalist.*

Law.—The *law* of the nation is composed of statutes, common law, treaties, and the constitution, to which the first three must conform.

The constitution is the fundamental law of the land, formulated by the representatives of the people, by whom it is then ratified.

But in some countries the constitution has been "elaborated by every day experiences."

A *statute* is a law enacted by the legislature.

Treaties are solemn engagements between independent governments, in which each government agrees to conform in certain limitations in her conduct towards the other nation. The only way to enforce treaty rights is by war.

"The *common law* includes those principles, usages and rules of action applicable to the government and security of person and property, which do not rest for their authority upon any express and positive declara-

tion of the will of the legislature."—*Chancellor Kent.*

The American common law is based on English common law, which Sir Mathew Hale declared to be "the wisdom, counsel, experience and observation of many ages of wise and observing men."

Foreign representatives.—Louis XI kept spies at most of the neighboring European courts to inform him of their proceedings. But Ferdinand (1452–1516) who ruled Spain fifty-two years accomplished the same result in a more honorable way. He established resident embassies which greatly facilitated commercial intercourse and perpetuated friendly relations by leading to the settlement of difficulties by negotiation.

The chief diplomatic agents are ambassadors and ministers resident, the difference consisting in dignity and salary,—the duties remaining the same. Ambassadors are sent to the greater countries and ministers to the lesser governments.

When the ambassador is sent to negotiate some special treaty, he is called ambassador extraordinary. Corresponding to the ambassador extraordinary is the minister plenipotentiary.

The United States designated their chief representatives by no higher title than envoy, extraordinary, and minister plenipotentiary until 1893, when congress authorized the appointment of ambassadors.

Consul.—The consul is a commercial agent who looks after the interests of merchants and seamen in foreign countries.

About the 12th century the states of Italy began to

appoint consuls to facilitate trade with barbarous and uncivilized nations. Other countries soon saw the utility of such officers in matters of trade and perfected the system until in times of peace the consul has become one of the most important offices of the government.

Referendum.—"The referendum is the right of the people to decide on certain laws or measures which have been passed by the legislative body."—*Century Dictionary.*

When the legislative branch of the government of South Dakota or of Switzerland passes a law it does not go into effect until a certain number of days have passed. If, in this time, five per cent of the voters of South Dakota or 30,000 of the voters of Switzerland petition the government that the law be submitted to the people for their consideration, it must be submitted, and if a majority vote in favor of the law it is then in full force. If a majority do not vote for it, then it is null and void. The cantons of Switzerland vary in their practice, some requiring every law to be submitted to the people, others giving the legislature power to decide that a law must go into effect at once.

Initiative.—This is the right to propose legislation. In the United States any one may propose a measure for legislative enactment, but there is no constitutional requirement forcing the legislative body to consider it, except in South Dakota, where if five per cent of the voters petition the legislature to pass a certain law, it is required by the state constitution to grant their demand by enacting the law and submitting it to the people for approval or rejection by a

majority vote. In Switzerland, 50,000 voters must petition for a law before the federal council is required to enact it. But in the canton of Zurich one person may propose a measure and the legislature must vote upon it. If one-third favor it, then it is submitted to the people for their consideration and vote.

Sovereignty mandate.—This is one of the recently proposed ideas in government. If the supreme court declares a law unconstitutional, the sovereignty mandate would allow the people to petition that the question be submitted to them, and if a majority voted for the measure, it would then be constitutional.

Federal government.—A federal government is based upon states as units. It deals *entirely with the states.* When it wants money it asks the states for it. The United States under the Articles of Confederation was a federal government. Congress could levy taxes but could not collect them; could vote to raise an army, but could not enlist a man. James Wilson was the author of the term Federal Republic.

National government.—A national government is based upon the people and state lines are obliterated. Mr. Madison, the father of the constitution, wrote: "The constitution is, in strictness, neither a national nor a federal constitution, but a composition of both. In its foundation it is federal, not national; in the sources from which the ordinary powers of the government are drawn it is partly federal and partly national; in the operation of these powers it is national, not federal; in the extent of them, again, it is federal, not national; and finally in the authoritative mode of in-

troducing amendments it is neither wholly federal nor wholly national."

National features of the Constitution

The members of the house of representatives are apportioned to the several states according to population, and they are elected directly by the people whom they represent directly.

The government acts directly upon the people in the execution of its laws.

In the electoral college, which chooses the president, the larger states have votes in proportion to their population.

Federal features

Each state is guaranteed one representative in the lower house and two in the upper.

The senators who are elected by state legislatures represent the state.

But it is limited in the extent of its powers, the state has charge of all local interests.

But every state has three votes in the college. This gives the small states much greater power than they would possess in a purely national government.

ORDINANCE OF 1787

The famous ordinance of 1787 was promulgated by the congress of the confederation for the government of the north-west territory.

The government erected was a foreign one, very aristocratic in form; the inhabitants, from 5,000 to 10,000 Frenchmen, were not consulted about its form or its erection. The governor had extensive power. He was appointed by congress for a term of three years and was required to possess 1,000 acres of land lying in the district.

He was given the following powers for the exercise of which he was responsible to congress alone.

Executive

He was commander-in-chief with power to appoint all officers below the rank of general officer.

He appointed all county and township officers until the national legislature had convened and provided for their election.

He was entitled to exercise all ordinary executive powers.

Legislative

The governor and the three judges formed the legislative branch of the government.

But the legislature was required to choose its laws from the statutes of other states.

He established counties and townships by proclamation.

The judges, three in number, were each required to possess 500 acres of land lying in the district and were appointed by congress to serve during good behavior. Their judicial powers extended to a common law jurisdiction.

Their legislative power has been given under the legislative power of the governor.

A secretary was appointed by congress to report the acts of the government to congress. He served four years.

The governor had no judicial power and the judges had no executive power. This form of government lasted ten years (1788–1798), before there was a change. The ordinance had provided that a territorial legislature should be established as soon as there were " five thousand free male inhabitants of full age in the district ".

The legislature was to consist of three houses,—(1) The general assembly composed of members elected by the people, to serve two years; (2) the council, chosen in the following manner: The general assembly nominated ten men and congress chose five from the number; these five formed the council and served five years; (3) the governor.

A bill originated in the assembly and if passed it was sent to the council and if it passed this house it was sent to the governor, who might sign it or exercise absolute veto power.

The governor had power to convene, prorogue, and dissolve the general assembly.

Two immortal sentences that have vastly influenced

legislative acts and public opinion are found in this remarkable state paper, the ordinance of 1787.

"Religion, morality and knowledge being necessary to good government, and the happiness of mankind, schools and the means of education shall forever be encouraged."

"There shall be neither slavery nor involuntary servitude in said territory, otherwise than in the punishment of crime, whereof the party shall have been duly convicted."

It seems strange that men that had declared taxation without representation unjust and tyranical should enact into law this sentence: "The inhabitants and settlers in the said territory shall be subject to pay a part of the federal debts contracted or to be contracted."

August 7, 1789, the president, George Washington, approved an act that gave him the same power over the north-west territory that had been held by the congress of the confederation.

CHAPTER II

A HISTORY OF THE NATIONAL CONSTITUTIONAL CONVENTION AND EVENTS LEADING UP TO IT

The history of the making of the union begins in 1754 and continues until there was a real United States in 1898, when North and South stood shoulder to shoulder under one flag fighting a common foe. It took this country more than a century and a half to attain national self consciousness, to establish an imperishable republic.

Benjamin Franklin, editor of the Pennsylvania Gazette, began early to make vigorous appeals to the colonies to unite, but not until 1754, when France threatened the safety of the country, was there any effort made to form a union. Delegates from seven colonies met at Albany, N. Y., and adopted a plan of union which was proposed by Franklin. It was rejected both by colonial assemblies and by the king, each thinking that it gave too much power to the other. Yet Franklin did not despair. He knew that in the union of the colonies lay the power to compel England to respect our rights, while men of England were dreading "American union as the keystone of independence."

In 1765 a congress composed of delegates from nine states met in New York and asserted the right of self government in these words: "That the people of these

colonies . . . . from their local circumstances cannot be represented in the house of commons . . . . and no taxes can be constitutionally imposed on them except by their representative legislatures."

In 1774 the first continental congress met in Philadelphia. Fifty-five delegates were present from twelve colonies, Georgia not being represented. They adopted a "Declaration of Colonial Rights" that stated pointedly the differences between the colonies and the mother country. But this congress went one step further. They entered into an agreement not to import British goods nor to export any of the products of the colonies to Great Britain until their wrongs should be redressed. This was the first definite step towards union. It was in session from September 5 to October 26. John Adams called it "The memorable league of the continent in 1774 which first expressed the sovereign will of a free nation in America."

The second continental congress, which met May 10, 1775, was composed of representatives from all the colonies. "The second congress remained, in name at least, in perpetual session until it was succeeded by the congress of the confederation, nearly six years later (March, 1781)." This was a revolutionary body, exercising powers that had never been delegated to it but were demanded by public exigency. Dr. Von Holtz has said: "Until the adoption of the Articles of Confederation by all the states, congress continued a revolutionary body, which was recognized by all the colonies *de jure* and *de facto* (by law and in fact) the national government, and as such came into contact with foreign powers, and entered into engagements,

the binding force of which on the whole people has never been called in question."

In June, 1776, two committees were appointed—one to draft a declaration of independence, and the other to outline a scheme of government. The last committee reported in four days, and the first constitution for the whole country was adopted by congress and submitted to the states for ratification. But not until 1781 was it ratified by the thirteenth state, Maryland being the last, she having refused to ratify until the states owning the large territory in the north-west should cede it to the national government, an act for which the state of Maryland deserves much credit.

This constitution has been called the Articles of Confederation because it founded a confederacy and not a national government. This attempt at constitutional government is noted more for what it failed in doing than in what it succeeded. Congress was the only governmental body; it was really limited to advisory power, it had some judicial power affecting matters in which states were involved, and in some cases it could execute its laws; for instance, it could buy provisions for the army if it had money or credit. It could levy but could not collect taxes. It could vote an army but could not enlist men. It could negotiate treaties but could not enforce them. It could not deal with the individual, but must beg the state to meet its humble petitions for men and money.

This being the state of affairs, when peace was declared in 1783, the country lost respect for the government—"its glory was departed, and its days of labor done." Fourth and fifth rate men were elected mem-

bers of congress; sometimes states actually neglected to elect their delegates and many of those who were elected failed to attend. It took three months to get a quorum to ratify the treaty of peace, and it was "with the greatest difficulty that delegates enough could be brought together in 1788 to set the government created by the constitution in motion." There were not enough present to formally adjourn when the end came, and the old government fell to pieces and the country had no central government from October, 1788, to April, 1789.

Being more than a century from this early period, it seems to us that all must have been harmony and good will among the states. But the opposite is too plainly true. The states were on the point of civil war many times during the years 1783 to 1787. The condition was such that King George believed that the people would get into such a snarl that the states, one by one, would beg on their knees to be taken back into the empire. Congress had no control over commerce, the state was absolute in its own domain.

New York, not content with levying a tariff upon foreign goods, laid a heavy duty on Connecticut fire wood and New Jersey butter, cheese, and eggs. "Great and just was the wrath of the farmers and the lumbermen." New Jersey retaliated by levying an $1,800 tax on a few square feet of ground leased to New York for a light-house. In Connecticut, the merchants agreed, under a penalty of $250 for the first offense, not to send any goods into the hated state for twelve months. "But for the good work of the federal convention another five years would scarcely have elapsed

before shots would have been fired and seeds of perennial hatred have been sown on the shores that look toward Manhattan Island."

People from Connecticut had settled in the beautiful Wyoming Valley. Pennsylvania claimed this region and its claim had been allowed by a federal court as provided for by the Articles of Confederation. Connecticut accepted the award as gracefully as possible. In the spring of 1784 a sudden thaw brought disaster to the Yankee settlers, their houses and barns were swept away, their stock drowned and their fruit trees destroyed. Greater suffering had not been known in this fair state of the Quakers. President Dickenson urged the legislature which was in session to send prompt relief to the stricken valley. "But the hearts of the members were as of flint, and their talk was incredibly wicked. Not a penny would they give to help the accursed Yankees. It served them right. If they had stayed in Connecticut they would have kept out of harm's way." The legislature sent a force of militia to the valley, who stole everything they could, treated men with violence and the women with insults, until the inhabitants were forced to strike back. The militia's leader, Patterson, attacked the settlement, turned five hundred people out of doors and burned their homes; the old, the infirm, the weak and the tender women were driven into forest at the point of the bayonet and told to leave for Connecticut as quickly as possible. Many became food for wolves; their suffering is indescribable. Actual warfare existed. Pennsylvania and all New England were saved from civil war by a peculiar arrangement in the Penn-

sylvania constitution. As the legislature consisted of but one body, a body of censors met every seven years to revise and even abrogate the action of the legislature. The time for the meeting of the censors was at hand, and they unsparingly condemned the acts of the legislature; so sympathy was awakened for the sufferers and war was averted.

These troubles were happening on every hand—anarchy, riot, and rebellion was the condition of every state. No wonder that a few men turned to their leaders in their demand for a stronger central government, but with the hate that each state held for the other, with the love of the people for their own, it is the wonder of the ages that a new government was ever erected.

"This republic is, and forever shall remain, a free and independent state."—The act whereby the charter of Connecticut became its constitution in 1776.

"The people of this commonwealth have the sole and exclusive right of governing themselves as a free, sovereign and independent state."—Constitution of Massachusetts, 1780.

"That the style of this country hereafter be the state of South Carolina."—Constitution of South Carolina, 1778.

Washington and Jefferson repeatedly spoke of Virginia as their country.

The quotations above show the feeling of the people of the states. This prejudice must be overcome and the states must be brought to the point where they are willing to surrender a part of their power before a new government could be erected.

It is generally agreed that common commercial in-

terests led to the constitutional convention in 1785. Maryland and Virginia appointed commissioners who met at Alexandria to form a treaty of commerce concerning navigation of waters held in common. If it was wise to have common laws on commerce, it was concluded that a uniform system of currency was desirable. It was but a step to believe that what was desirable for Maryland and Virginia would be advantageous to the whole country. In 1786 Virginia appointed eight commissioners to meet with similar commissioners of other states "to consider how far uniformity in their commercial regulations might be necessary to the common interests and perfect harmony". Twelve commissioners representing five states met at Annapolis in September, 1786. The important action of this convention was a recommendation to congress to call a convention to revise the Articles of Confederation. Through the influence of Hamilton and Bowdoin, congress voted the call for a convention to meet in Philadelphia "for the sole and express purpose of revising the Articles of Confederation".

On May 14, 1787, this convention met and began the most important legislative events in the world's history. Shortly after the convention had organized it was decided that the articles could not be amended then, according to the theory that was generally held and their instructions, and there was nothing left to do but go home and report their inability to do anything. But here began the assumption of power that was revolutionary, under the leadership of Washington, Madison, and Randolph. After bitter discussion (the convention was on the point of breaking up several

times) it was decided to make an entirely new constitution and submit it to the states for approval.

The next question discussed was the nature of the government—whether it should be national or federal, whether it should be based upon the people as units or upon states. The large states were in favor of a national form, while the small favored the federal. After serious and dangerous discussion, Roger Sherman, the shoemaker, proposed a compromise, that the senate should be federal, each state having equal power—the thought that the two senators would ever vote against each other and thus, according to the federal view, lose the state's vote, never entered their minds; and that the house of representatives should be national, the representation to be based on population or wealth. When the convention had decided that representation should be based on population, there was a division between the North and South over the question of slavery, the North insisting that the slave was a chattel the same as a horse, while the South insisted that the slave was a person and should be represented. Madison proposed the compromise whereby five slaves counted as three white men, giving the South undue representation. Were the North and South consistent? They had traded platforms. Earlier than this, there was a proposition made that the congress of the confederation should proportion taxes according to population. Then the North insisted that the slaves should be counted as population, while the South held they were property. We shall see where the South forgets its new stand and holds that the slave is a thing, a matter of commerce, before the convention adjourns.

When the convention took up the question of the control of commerce by congress, the New England states contended for control by majority vote; while the southerners, fearing the abolition of the slave trade, and unfair treatment by the commercial states, insisted that a two-thirds vote should be required to pass a law on commerce. The three southern states joined with New England, and by their combined vote only a majority vote is necessary to pass a tariff law, while the slave trade was protected until 1808,—the slave had become a matter of commerce.

Other compromises were made. The most striking was an undoubted compromise between state sovereignty and nationalism, which is understood rather than expressed.

The purpose of the convention was to establish an aristocratic or oligarchic republic and not a democracy. Elbridge Gerry, the father of the gerrymander, said: "The evils we experience flow from an excess of democracy." George Mason, "We have been too democratic." Madison, in speaking of the time when a few would own the land, said: "The rights of property will not be secure in their (the people's) hands or they will become the tool of ambition and opulence."

We have come to love our constitution and are so satisfied with it that it is almost impossible to have it amended, but has this always been so? Let us read the testimony of John Adams: "But these (patriots of the revolution and the substantial citizens of seaboard towns) could never have succeeded in effecting the establishment of the constitution had they not re-

ceived active and steady co-operation of all that was left in America of attachment to the mother country, as well as of the money interest." Callendar said: "'The constitution was crammed down the gullet of America."

CHAPTER III

THE CONSTITUTIONS—THE PREAMBLE AND DECLARATION OF RIGHTS

Constitution of the United States

Adopted by the constitutional convention which met at Philadelphia May 14, 1787, but for the want of a quorum, did not organize until the 25th of the same month. Of the sixty-five delegates chosen, fifty-five attended the convention, thirty-nine of whom signed the constitution on the day of adjournment, Sept. 17, 1787. George Washington was president; and William Jackson, secretary.

This constitution was ratified by conventions of states and not directly by the people.

The states ratified the constitution in the following order and by the following vote:

Delaware, unanimously.
Pennsylvania, 46 to 23.
New Jersey, unanimously.
Georgia, unanimously.
Connecticut, 128 to 40.
Massachusetts, 187 to 168.
Maryland, 63 to 11.
South Carolina, 149 to 73.

Constitution of Ohio

Ohio has held two constitutional conventions: the first convened in Chillicothe, November 1st, 1802, and completed its labors November 29th. Edwin Tiffin was president and Thomas Scott, secretary.

The second constitutional convention met in Columbus, May 6th, 1850, and continued in session until July 9th, when it adjourned to meet in Cincinnati, December 2d.

Its final adjournment took place March 10, 1851. William Medill was chosen president and W. H. Gill, secretary.

The first convention was composed of 35 members and the second of 111. Ohio was a state from the promulgation of her first constitution, November 29th, 1802, but was not formally recognized by the national government until February 19, 1803.

New Hampshire, 57 to 46.
Virginia, 89 to 79.
New York, 30 to 27.
North Carolina, by a majority of 11.
Rhode Island, 34 to 32.

PREAMBLE

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution of the United States of America."

The preamble of a constitution declares the purpose of the people in erecting a new government.

While the preamble begins with "We, the people," the constitution was really the work of the states. It is now admitted that if the constitution had been submitted to the people for ratification it would have been overwhelmingly defeated. The imperfect union under the Articles of Confederation led to a desire for "a more perfect union". Only state courts had existed and the citizens of one state were often unable to secure justice in the courts of an-

PREAMBLE

"We the people of the State of Ohio, grateful to Almighty God for our freedom, to secure its blessings and promote our common welfare, do establish this constitution."

This preamble voices the sentiment expressed in all the states,—*gratitude* for the *blessings* of *liberty*, and the *feeling* that there is *security* only under *state government*. The national government exercised such arbitrary power in the rule of the early territories, that the people of a territory felt that they would not be secure in "life, liberty, and property" until they were protected by a state government.

Mr. Justin Campbell in dissenting from the decision of the court in the Dred Scott case, said, "The first territorial government of Louisiana [the territory of Orleans] was an imperial one founded upon a French or Spanish model."

In congress in speaking of the same government, Mr. Camp-

other state, hence "to establish justice", it was necessary to establish a system of courts. The states had been on the verge of war with each other and rebellion had existed in many of them; a government that could "insure domestic tranquillity" was necessary. The old form had proven itself inadequate to "provide for the common defence". The members of the convention well understood the danger that beset the country. England and France each hoped to gain possession of a portion of the country, if not all, through the bickerings and quarrelings of the states. If the blessings of liberty that had been secured at such sacrifice of life and property were to be maintained, it must be by a government that would be respected by other governments.

Declaration of Rights

A declaration of rights is a formal statement of popular rights which the government must not abridge or deny. In 1688 when William and Mary came to the throne of England, parliament issued a Declaration of Rights which the new sovereigns accepted.

It is usually said that the constitution in its original form conbell declared, "It really establishes a complete despotism."

It is true that this early territorial government was repugnant to the American political conscience, and congress soon changed the form giving a territorial legislature control over local interests. Yet this could be withdrawn at any time. The supreme court has held that, "It (congress) may declare a valid enactment of the territorial legislature void, or a void enactment valid, although it reserved in the organic act no such power."

Although the preamble of the first constitution begins, "We the people," the people had nothing to do with its ratification. It also declared that a free and independent state was to be established.

Declaration of Rights

The necessity of a distinct declaration of rights in the constitution of a republican form of government is not so obvious as under a monarchy.

Guarantees against hereditary monarchs may be needed, but it seems the people hardly need such guarantees against themselves.

Yet when the nation and states began constitution making,

tained no such declaration in the main body of it, but there are at least seven such declarations. In 1791 the first ten amendments were added to the constitution; these amendments are usually designated as the Declaration of Rights of the national constitution.

The colonies issued a declaration of rights in 1765 and 1774, which have influenced the members of every constitutional convention held in America.

The following provisions are taken from the English declaration of rights:

"That it is right for subjects to petition the king"

"That the raising or keeping of a standing army * * * unless to be with the consent of parliament, is against the law."

"That freedom of speech, and debates or proceedings in parliament ought not to be impeached or questioned in any court or place out of parliament."

"That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted."

ART I. Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of public opinion did not influence the acts of the government so readily as now, and there was a distinct need of such provisions. But the constitution makers of Ohio understood the real power of the people as evidenced by the following declaration:

SEC. 2. All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same, whenever they may deem it necessary; and no special privileges or immunities shall ever be granted, that may not be altered, revoked, or repealed by the general assembly.

Under this section any act of the legislature may be repealed; and perpetual monopolies or privileges cannot be established. Many states have a section similar to the first part of this one. This section proclaims the true democratic doctrine.

SEC. 7. All men have a natural and indefeasable right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or

the people peaceably to assemble and petition the government for a redress of grievances.

Article VI of the constitution provides, "No religious test shall be required as a qualification to any office or public trust under the United States." These are the only provisions in the federal constitution upon these subjects.

"The real object of the amendment was not to countenance, much less to advance Mohamedanism, Judaism, or infidelity by prostrating Christianity but to exclude all rivalry among Christian sects."—*Justin Story*, 1877.

While congress is prohibited from establishing and supporting out of the treasury a national church, Judge Cooley says: "The courts of the union and the states, in administering the common law, find it necessary to take notice that the prevailing religion of the country is Christian." Congress has never attempted to violate the first clause, Article I, but the second and third have been notoriously broken. The sedition law is an example of the violation of the second. Under this law one man was fined $400 and given six months imprisonment for saying that Adams's administration was not entitled to support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given, by law, to any religious society; nor shall any interference with the rights of conscience be permitted. No religious test shall be required, as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the general assembly to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

SEC. 3. The people have the right to assemble together in a peaceable manner, to consult for their common good; to instruct their representatives; and to petition the general assembly for the redress of grievances.

SEC. 11. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of the right; and no law shall be passed to restrain or abridge

istration was "wholly in the infancy of political mistakes". By the notorious "gag rule" of the house, the right of petition was denied to the opponents of slavery for several years. There was no power to punish the house for violating the constitution, but public sentiment became so strong that it was finally heeded and the rule repealed.

Article VI of the constitution provides that legislative, executive, and judicial officers both of the United States and of the several states shall be bound by oath or affirmation to support the constitution but no religious test shall be required. The constitution of Missouri, 1820, provided that no bishop, priest, clergyman, or teacher of any religious persuasion should be eligible to membership in either house of the legislature, or to hold any office of trust, except the office of justice of the peace.

This provision was held to violate the provision of Article VI, therefore void.

The states are free to establish a church, restrict the press, or deny the right of petition.

ART. II. A well regulated militia being necessary to the security of a free state, the right

the liberty of speech, or of the the press. In all criminal prosecutions for libel, the truth may be given in evidence to the jury, and if it shall appear to the jury, that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted.

The question is often asked why the states adopt provisions that are identical with those found in the amendments to the national constitution. The courts have held that the amendments impose restrictions upon congress only, hence it is necessary that each state re-enacts these clauses if it wishes to limit the power of its government.

Many persons prefer the short, terse expressions of the national constitution to the more elaborate clauses of the state constitutions.

Section 1 does not prevent the legislature from establishing a day of rest, since such an act is a municipal or police regulation. Nor does it violate this provision that the Christian Sunday has been chosen for the day of rest.

SEC. 4. The people have the right to bear arms for their defense and security; but stand-

of the people to keep and bear arms shall not be infringed.

ART. III. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war but in a manner to be prescribed by law.

The oppression of the British government was so grievous that the fear of the use of tyrannical power is still in the people and they insist on safe-guarding themselves even against a government of their own making. The attempts of the mother country to prohibit the colonial militia and the passage of the mutiny act are responsible for these provisions. The right to bear arms is given to the people as a whole and not to the individual, and the arms must be "such as are suitable for the general defense of the community against invasion or oppression; and the secret carrying of those suited merely to deadly individual encounters may be prohibited."

The maxim of the common law, "every man's house is his castle", is, in Article III, made part of the constitution.

ART. IV. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches ing armies, in time of peace, are dangerous to liberty, and shall not be kept up; and the military shall be in strict subordination to the civil power.

SEC. 13. No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor, in time of war, except in the manner prescribed by law.

These provisions have never been violated by the government of Ohio, and probably never will be. "Nevertheless a declaration of the indefeasible right of the citizen can never be wholly needless"

"Owner" means the occupant in possession of the house.

Section 4 states a fundamental principle of true democracy when it declares that the "military shall be in strict subordination to the civil power". In a monarchy the military is in complete control of the government.

This puts the general assembly in complete control of all questions of war, of arming and equipping the militia and leaves the governor, the commander-in-chief, to carry out its directions.

SEC. 14. The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable

and seizures, shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

In law, search warrants are divided into two classes, general and special. The former is issued without the name of the place to be searched or the thing to be seized. This enables an officious officer to harass any one he pleases and to commit robbery in the name of the law. Just before the revolution, Great Britain, clearly contrary to the law, issued general warrants, called writs of assistance, which were used to intimidate the people. The effect has been that this safe-guard is in every state, as well as in the national, constitution.

searches and seizures shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the person and the things to be seized.

"A warrant is an authority to do some judicial act, a power derived from some court to take some person or property." Slaves were never treated as coming under this provision.

According to the "Dred Scott" decision the slave had no political right, he was only a matter of property, a chattel.

ART. V. No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger, nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled, in any

SEC. 10. Except in cases of impeachment, and cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, and in cases of petit larceny and other inferior offences, no person shall be held to answer for a capital or otherwise infamous crime, unless on presentment or indictment of a grand jury. In any trial, in any court, the party accused

criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ART. VI. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

shall be allowed to appear and defend in person and with counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district, in which the offense is alleged to have been committed; nor shall any person be compelled, in any criminal case, to be a witness against himself, or be twice put in jeopardy for the same offense.

SEC. 19. Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war or other public exigency imperatively requiring its immediate seizure, or for the purpose of making or repairing roads, which shall be open to the public, without charge, a compensation shall be made to the owner, in money; and in all other cases, where private property shall be taken for public use, a compensation therefor shall first be made in money, or first secured by a deposit of money; and such compensation shall be assessed

"No person" referred originally to free white people. Negroes were often proceeded against without indictment. But since the fourteenth amendment the expression, "no person," undoubtedly has a broader meaning.

An indictment is a written charge of crime presented to a grand jury and by them certified to be a "true bill", or "not a true bill".

In time of peace no one, except a member of the army or navy, can be tried for treason, piracy, or felony unless an indictment has first been lodged against him and found to be a true bill by the grand jury. But congress has power to provide for the punishment of military and naval offenses in the manner practiced by civilized nations.

If a person is tried for a crime and acquitted by a petit jury and again put on trial for the same offense then he has been "twice put in jeopardy".

ART. VII. In suits of common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact by a jury, without deduction for benefits to any property of the owner.

The right to take public property for public use is called the right of eminent domain. In 1215 the English people embodied the common law on the subject of eminent domain in the Great Charter as follow: "No freeman shall be taken or imprisoned or disseized of his freehold, or liberties, or otherwise destroyed but by lawful judgment of his peers, or by the law of the land."

But this does not provide compensation as required by American constitutions. There is no provision for taking private property for private use in Ohio's constitution.

The right of eminent domain exists in state and nation, and is sometimes delegated to private corporations to be exercised in the execution of work from which the public will receive some benefit. Navigable rivers or lakes cannot become private property.

There is no provision in the Ohio constitution concerning the English common law. In 1805 the legislature passed an act making the common law

tried by a jury shall be otherwise re-examined, in any court of the United States, than according to the rules of the common law.

The common law here alluded to is the Common Law of England and not of any state.

The *common law* or *lex non scriptu*, is those immemorial customs of the courts that date back into English history so far that mind of man runneth not to the contrary. The common law holds where no statute has been passed to the contrary.

and general acts of parliament prior to 1607 a part of the law of Ohio, but in 1806 the law was repealed and no action has since been taken. But the courts of the state adopt the principles that are adapted to the circumstances, state of society and form of government.

There are two juries, the grand and the petit. The grand jury usually consists of fifteen persons, any twelve of whom may find an indictment to be a true bill. They sit in secret session and look into all charges of crime committed in their district, and, if they are satisfied that there is sufficient evidence against the accused to justify a formal trial, they return the indictment to the court, with the proper indorsement. The petit jury tries both criminal and civil cases in open court and renders a decision after both sides have been heard. It usually consists of twelve men, all of whom must agree to the verdict.

The grand jury consists of fifteen members and the petit of twelve.

In the court of the justice of the peace the jury consists of six and by consent of both sides it may be composed of a smaller number.

ART. VIII. Excesssive bail shall not be required, nor exces-

SEC. 9. All persons shall be bailable by sufficient sureties,

sive fines imposed, nor cruel and unusual punishments inflicted.

This amendment is taken word for word from the English Bill of Rights. "Bail is delivery from custody on security."

Bail should not be fixed at a sum so large as to purposely prevent a person from securing it.

except for capital offenses, where the proof is evident, or the presumption great, excessive bail shall not be required; nor excessive fines imposed; nor cruel and unusual punishments inflicted.

"That reasonable bail shall be accepted is an admonition addressed to the judgment and conscience of the court or magistrate empowered to fix the amount; it is impossible that a definite rule shall be established by law for particular cases."—*Judge Cooley.*

ART. IX. The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ART. X. The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

The government of the United States can exercise only those powers which are delegated to it by the constitution, while the state governments may exercise any power not denied to them by the national and state constitutions. The chief distinction between the leading political parties has grown out of the question whether the national government is limited to the ex-

SEC. 20. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers, not herein delegated remain with the people.

The rights retained by the people are stated in the declaration of rights in the constitution.

The last clause would seem to imply that the government is restricted in some other way; but it is not.

It can do anything not expressly denied by the constitutions of the state and nation, since the constitution expressly vests the legislative power in the General Assembly, the executive power in the governors the judicial power in the court, without restriction upon the use of these powers.

pressed declarations of the constitution or whether it may exercise implied powers.

ART. I, SEC. 9. 2. The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

Habeas corpus is a Latin phrase meaning "you may have the body." It is a writ that commands a person having another under arrest to bring him into court and give the cause of his arrest. If the judge is not satisfied that the prisoner is legally held, he releases him. This prevents the arrest and detention of persons without good and sufficient reasons.

The question is, which branch of the government has the right to suspend the privilege of the writ? During the civil war, the executive assumed the right, but later congress passed a law legalizing the suspension, thus indicating that it believed that the right belonged to the legislative branch.

ART. I, SEC. 37. Judgment, in case of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor trust, or profit, under the United States; but the

SEC. 8. The privilege of the writ of habeas corpus shall not be suspended, unless in cases of rebellion or invasion the public safety require it.

SEC. 18. No power of suspending laws shall ever be exercised, except by the general assembly.

The Ohio constitution does not leave in doubt the question, who has the power to suspend the writ of habeas corpus. It would seem that section 18 forbids the general assembly to give the governor the power to suspend the writ.

The suspension of a law is a legislative not an executive act, and is properly exercised by the legislature. While the national constitution makers left the matter in doubt, the states wishing to deprive the governor of all legislative power, stated their intentions definitely.

SEC. 24. The governor, judges, and all state officers may be impeached for any misdemeanor in office; but judgment shall not extend further than removal from office, and disqualification to hold any office, under the

party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to law.

The president, vice-president, and all civil officers may be impeached. It has been held that a congressman is not a civil officer and not impeachable. The men and officers of the navy and army cannot be impeached but are tried for offenses by courts-martial.

ART. I, SEC. 9. 3. No bill of attainder, or ex post facto law, shall be passed.

Also read Art. I, Sec. 10–1.

The national as well as the state constitution prohibits the state from passing laws impairing the obligation of contracts, but no restriction is put upon congress. Neither congress nor the legislature can pass an ex post facto law. An ex post facto law is a statute that affects crimes that were committed before the law was passed or that makes criminal, acts that were lawful when performed. A bill of attainder is a legislative act inflicting punishment upon a person without a trial in court before a jury.

The student should discriminate between the power of the legislature and the power of the courts. The legislature cannot pass a bill of attainder, but the courts may punish for contempt. The legislature cannot pass an ex post facto law, but the courts may punish for crimes committed before the law was passed.

The constitution of Ohio does not mention "bill of attainder", nor "ex post facto laws", since the power to pass such laws is denied to the state by the national constitution.

This section gives the legislative authority of this state. The party impeached, whether convicted or not, shall be liable to indictment, trial, and judgment according to law.

The question of the power to impeach a member of the general assembly has never been raised. It is most probable that the opinion of the federal senate, that a legislator cannot be impeached, would be accepted. Such a power could be greatly abused for political purposes.

The governor, judges and all state officers may be impeached.

SEC. 28. The general assembly shall have no power to pass retroactive laws, or laws impairing the obligation of contracts; but may, by general laws, authorize courts to carry into effect, upon such terms as shall be just and equitable, the manifest intention of parties, and officers, by curing omissions, defects, and errors, in instruments and proceedings, arising out of their want of conformity with the laws of this state.

ate between "bill of attainder" and "attainder". Attainder is the act of extinguishing one's civil rights, because of crime. In the United States, it is entirely a power of the judiciary. Art. III, 3, 2 of the constitution places restrictions on the use of the power as follows:

The congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ART. I, SEC. 9, clause 8. No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them shall, without the consent of the congress, accept of any present, emolument, office, title, of any kind whatever, from any king, prince, or foreign state.

Hamilton declared this provision to be the corner stone of the republic.

ART. III, SEC. 2, clause 3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where said crimes shall have been committure power to confer on the courts jurisdiction in cases of equity by general law, so that practices of the courts may be uniform.

"The great and primary use of a court of equity is to give relief in extraordinary cases, which are exceptions to the general rule."

While courts of equity are practically abolished by section 2, article XIV, the principles of equity are in use.

SEC. 17. "No hereditary emoluments, honors, or privileges, shall ever be granted or conferred by the state."

The United States is prohibited from granting titles of nobility and no officer is allowed to accept of any title, office, etc., from a foreign power, but a private citizen may.

The Ohio state government is forbidden to create hereditary honors, etc., by her own constitution and to create titles of nobility by the national constitution.

SEC. 12. No person shall be transported out of the state, for any offense committed within the same; and no conviction shall work corruption of blood, or forfeiture of estate.

ted; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

This does not apply to military offenders or private citizens who offend the law when the district is under military rule.

THE LAST THREE AMENDMENTS

The XIII amendment abolished slavery, the XIV made the freed-man a citizen, and the XV made him a voter.

SEC. 5. The right of trial by jury shall be inviolate.

The provision that no one shall be transported out of the state prevents the legislature making banishment one of the penalties for crime, "The constitutional right to trial by jury is not infringed when the accused may have it or not at his election."

CHAPTER IV

LEGISLATIVE DEPARTMENT

THE NATION

The law-enacting power of the nation is vested in the president and congress. When a bill has passed both houses of congress, it is sent to the president, who, if he approve of it, will sign and thereby make it a law. If he disapprove of it, it is returned to congress, which may, by a two-thirds vote, pass the bill over the president's veto.

The president and the senate, in the treaty-making power, enact laws without the consent of the house.

Executive duty.—The senate is given the power to approve or reject the appointments of the president. The appointment of the officers of congress has been held to be a legislative act.

The house has the sole power of impeachment. To impeach is to formally accuse one in high office. Impeachment corresponds to indictment in the courts. This is purely an exec-

THE STATE

The legislative power of the state is vested in the general assembly, consisting of a house of representatives and a senate.

The governor has no power in legislation.

A bill may originate in either house and when it has, in each house, received the affirmative vote of a majority of the members elected thereto and has been signed by the presiding officer of both houses the bill is a law.

The state has no treaty-making power. [See Article I, Section 10, clause 1 of the national constitution.]

Executive duty.—The senate must confirm or reject the appointments of the governor. This right gives the senators great influence with the executive.

The house has sole power of impeachment, but a majority of the members must concur therein. The governor, judges, and all state officers may be impeached.

utive act. The court cannot try a person for crime until he is brought before it by an executive officer.

A person under indictment or impeachment is innocent before the law until he is declared guilty by judicial action. The constitution gives the legislature power to pardon or commute sentences in cases of conviction for treason.

Terms, salary and qualifications.—A senator serves six years and a representative two years. Each receives $5,000 annually. A person, to be eligible to the office of representative, must have attained the age of 25 years, and have been a citizen of the nation for seven years, and an inhabitant of the state from which he is chosen; but to be eligible to the office of senator, a person must be at least 30 years of age, and have been nine years a citizen of the nation and an inhabitant of the state by which he is elected.

Terms, salary and qualifications.—A member of the general assembly is elected for a term of two years. Each member receives $600 per year.

Any voter may be elected a representative or senator, provided that he has been a resident of the district from which he is chosen for one year next preceding his election and has not been convicted of an embezzlement of public funds and does not hold public money for disbursement or otherwise.

Apportionment.—Each state has two senators and a representative for each 194,182 persons. Each state whose population is less than the number required for a representative, is entitled to one member of the house.

There are ninety senators, and 386 representatives at present (1902).

After each decennial census congress apportions among the

Apportionment.—In the year following the taking of the census by the federal government, the governor, the secretary of state, and auditor of state, meet and apportion representatives and senators by dividing the whole population of the state by 100 to find ratio for representatives and by 35 for senators.

The ratios for the next 10 years are 118,787 for senator and 41,576 for representatives.

States the members of the lower house, and the state legislatures divide the states into congressional districts, always having regard for county lines.

The party in the majority usually combines counties in such a way as to give it as great a number of the representatives as possible.

Where political interests and not justice determine the form of the district, the legislature is said to have "gerrymandered"* the state. This practice originated in Virginia in 1788 when the enemies of Madison schemed, unsuccessfully, to defeat him because of his friendship for the constitution. Under the leadership of Gerry, the governor, the Massachusetts legislature redistricted the state so unjustly that out of derision the name gerrymander was given to the practice.

This leads to such a combination of counties as to form "shoe string" districts.

Vacancy in the senate.—When a vacancy occurs by death resignation, or impeachment, the legislature of the state in whose

Any county having half a ratio may have one representative, and three-fourths of a ratio two representatives, and after the first two an additional representative for each full ratio.

When a county has a fraction above the ratio, so large that being multiplied by five the result equals one or more ratios, additional representation shall be allotted to the county, the session in which they shall serve being determined by the constitution.

If a county has less than half a ratio it is attached to the smallest adjoining county, but no county may be divided.

The constitutional convention divided the state into thirty-four districts.

The boundaries of senatorial districts follow the boundaries of counties, and a senator is allotted for three-fourths of a ratio. The commission has apportioned the state so that the number of representatives in the next five general assemblies (1901–1911) will be 110, 110, 113, 109, 111 respectively, and the senators 26, 33, 33, 37, 34 and 34.

Vacancy.—When a vacancy occurs in either house, it is filled by a special election. A person elected to fill a vacancy in either

* Pronounce the *g* hard.

representation the vacancy occurs, if in session, proceeds at once to elect a senator to fill the unexpired term. But if the legislature is not in session, the governor appoints a senator to serve until the legislature meets and elects a person to fill the remainder of the unexpired term.

Vacancy in the house.—When a vacancy occurs in the representation of any state the governor calls a special election of the district in which the vacancy occurs, to elect a representative to fill the unexpired term.

Time of meeting.—Congress meets on the first Monday in December of each year, and adjourns on March 4 of odd years, and at its own discretion in even years.

Quorum.—A majority of the members of each house shall constitute a quorum, and a majority of a quorum may pass a bill. A quorum is the number of members required to transact business.

Vice-president of the United States.—The vice-president is a legislative officer with very little power. He presides over the senate and casts the deciding vote in case of a tie. Dignity is added to his office by the fact that he is first in the line of of succession to the presidency. Salary, $8,000.

Formerly the vice-president

congress or the legislature serves for the unexpired term.

Time of meeting.—The legislature meets on the first Monday in January of even years.

Quorum.—A majority of each house constitutes a quorum for doing business. A bill must receive the votes of a majority of the members before it passes either house.

Lieutenant governor.—The lieutenant governor is a legislative officer as long as he continues in this office. He presides over the senate and casts the deciding vote in case of a tie. He signs all bills that pass both houses. The possibility of becoming governor adds dignity to his office.

Salary, $800.

appointed the committees of the senate but that power has now been taken from him.

Speaker of the house. — In power, excepting the president, the speaker of the house of representatives is the most important officer in the nation. By his appointment of committees he controls the whole trend of legislation.

Salary $8,000 annually.

In the nation the speaker has immeasurably more power than the vice-president, the president of the senate.

Judicial duties.—The senate sitting as a court, tries all cases of impeachment, and, if two-thirds of the members vote to sustain the impeachment, the person upon trial is removed from office and may be disqualified from holding any position of honor or trust in the United States.

The senators take oath as judges and two-thirds of those present must concur in a verdict or there is no conviction.

When the president is on trial the chief justice presides.

Initiative.—All bills that levy taxes shall originate in the house, but the senate may reject or amend a bill providing revenue.

Bills on all other subjects may originate in either house.

Term, two years.

He appoints none of the standing committees.

Speaker of the house,—The chief officer of the house is the speaker. He appoints the committees and otherwise directs the course of legislation.

Salary $600 annually.

As in the nation, the speaker is a much more important officer than the president of the senate, the lieutenant-governor.

Judicial duties.—The senate has jurisdiction of all cases of impeachment. The house has the sole power of impeachment, but a majority of the members must concur therein. At the trial of the person impeached the senators are under oath to do justice, and two-thirds of the members must concur in a verdict or the accused stands acquitted.

When the governor is on trial, the chief justice of the state presides.

Initiative.—Bills on any subject may originate in either house.

CHAPTER V

POWERS OF CONGRESS

All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.—Article I, section 1, Constitution of the United States.

The constitutional convention provided for the legislative branch before discussing the executive branch of the government. After having made the above declaration, the convention gave the president legislative power. Congress really consists of three bodies, the senate, the house of representatives and the president. The three are not co-ordinate in power, since the senate and the house may pass a bill over the president's veto. Again, the president and senate have legislative power; the constitution gives to them the power to make treaties, which the constitution declares to be a part of the supreme law of the land. The house has the exclusive right to originate revenue bills. The constitution specifies the subjects concerning which congress may legislate.

Under the head "congress shall have power", there are eighteen clauses specifying to what subjects the legislative power extends.

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but

all duties, imposts and excises shall be uniform throughout the United States:

Money is absolutely necessary to the effective existence of any government. Mr. Fiske says that the organization which levies and collects taxes is the government. The absence of the power to collect taxes was the weak part in the government under the articles of the confederation. Of the four words, taxes, duties, imposts, and excises, the first is the most general; taxes are divided into two classes, direct and indirect. The supreme court has decided that direct taxes are of two kinds only: (*a*) "those on real property, and (*b*) capitation or poll tax." All other taxes are indirect. Duties are the taxes levied on imported goods; and excises are taxes levied on goods manufactured at home; in the United States, *internal revenue* is generally used instead of *excise*.

"The tax is levied by the consent of many; the impost is imposed by the will of one." Any tax levied by congress upon the inhabitants of a territory or colony is an impost, since it is levied by the will of a government in which the territory has no voice.

2. To borrow on the credit of the United States:

In time of peace the expenditures of the government ought not to exceed its income. Nor should its income be greatly in excess of its necessary expenditures, for the accumulation of a surplus in the treasury often leads to extravagance and sometimes to fraud. But in case of war the power to borrow money is necessary. Jefferson wanted the constitution amended so that congress could not borrow money.

The government has two ways of borrowing, first by

issuing bonds which it sells to anyone who will buy, and second by issuing a paper currency which it compels its creditors to accept.

3. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes:

The experience of the states, when each state regulated its own commerce, had led to the constitutional convention. Each discriminated against the others in matters of tariff. No wiser clause is found in the constitution. The free commercial intercourse between the states has been the cause of the material prosperity of our country.

The Indians have always been treated as a subjugated people. The government has made treaties with them as though they were foreign nations.

4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States:

Naturalization is the act whereby a foreigner is made a citizen. Citizenship is not defined either by constitution or statue of the state or nation. Attorney General Bates has given the following definition: "A citizen is a member of the body politic, bound to allegiance on the one side, and entitled to protection on the other." Citizens are of two classes, native-born or naturalized. The children of citizens of the United States are citizens of this country, whether born at home or in some foreign land. The children of naturalized persons become citizens by the act of naturalization of their parents, provided they are not yet twenty-one and are residing in the United States. Only white people and persons of African descent or

nativity can become citizens of the United States by naturalization.

To become a citizen of the United States the foreigner must declare upon oath "his purpose to become a citizen of the United States and to renounce all allegiance to any foreign prince or state." Two years after this declaration, provided he has been a resident of the nation five years and of the state one year, he may apply for admission to citizenship, but he must renounce all allegiance to his prince or state. The president and senate have negotiated treaties with several foreign countries for the protection of naturalized citizens and their property, but if one re turns to his former country, a two years' residence is held to be a renunciation of his naturalization.

Bankruptcy is the legal discharge from debt. While it frees a person from his financial obligations and enables him to begin business again, it does not release him from his moral obligations. Bankrupt laws are not very popular, are passed only in cases of panics, and are soon repealed. Only four bankrupt laws have been passed by congress. These four laws have covered a period of eighteen years. The law which went into effect in 1898 has not yet been repealed.

5. To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures:

A uniform system of money has increased commerce between the states. In article I, section 10, the states are forbidden to "make anything but gold and silver coin a tender in payment of debts", or to "coin money". In 1792 an act carrying out the provisions

of this clause was passed. On the suggestion of Jefferson the decimal notation was adopted and the dollar became the unit. All coins less than one dollar in value are called subsidiary.

While congress is given the power to fix the standards of weights and measures, the same power is not denied to the state, hence there is lack of uniformity.

6. To provide for the punishment of counterfeiting the securities and coin of the United States:

The penalty for making or passing counterfeit coin, bank-notes, greenbacks, bonds, etc., is a fine not exceeding $5,000 and imprisonment not exceeding fifteen years.

7. To establish post offices and post roads:

The importance of a postal service was recognized as early as 1775, when the continental congress established a postal department and appointed Benjamin Franklin postmaster general of the United Colonies. The articles of confederation gave congress real power over postal affairs.

All postmasters receiving a salary of $1,000 or over are appointed by the president and confirmed by the senate. All others are appointed in the postmaster general's department, and "receive the rents from boxes, and a percentage on the sale of stamps and other office receipts."

A writer in Harper's Round Table is responsible for the following:

"In 1658, early in the reign of Louis XIV, M. de Velayer established a private penny post. Boxes were set up at the street corners for the reception of letters. Offices were opened in various quarters of Paris; col-

lections were made once a day from the street boxes, followed many hours later by a single delivery, and thus the first post-office in the world was established."

8. To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries:

Copyrights are granted to authors; and patents, to inventors. Books, pictures, charts, etc., whatever their character, can be copyrighted. The copyright gives an author exclusive right to publish his production for twenty-eight years. At the expiration of this period, the copyright may be renewed for fourteen years longer.

Any invention may be patented for a period of seventeen years, and the period may be extended seven years by the commissioner of patents, provided the patentee has "failed to receive a suitable return for his time, ingenuity and expense".

9. To constitute tribunals inferior to the supreme court:

Congress has established the circuit and district courts, the court of claims, and the circuit court of appeals. These courts have been discussed in the chapter on judiciary.

The court-martial was established to try offenders against military law and belongs to military rather than to the civil government.

10. To define and punish piracies and felonies committed on the high seas, and offences against the law of nations:

Piracy is robbery on the high seas. Felony on the high seas has never been defined by congress.

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water:

One of the interesting facts brought out by the Spanish-American war is, that the president may veto a declaration of war. Of course the resolution declaring war may be passed over the president's veto, but a war declared in such a manner would not be carried on very effectively, since the commander-in-chief was opposed to it.

Marque is the boundary of a country. Letters of marque and reprisal are commissions held by citizens of one country to cross the boundary of another and seize persons and property. The word reprisal suggests that the letters are granted against a country that has done some injury to the government granting the same. But acts coming under this clause are repugnant to American principles, and our nation has taken advanced grounds on privateering. The orders of the president in the last war are indicative of American feeling upon the question. They are as follows:

"In the event of hostilities between the United States and Spain, it will be the policy of this government not to resort to privateering. The government will adhere to the following rules:

"First, neutral flag covers enemies' goods, with the exception of contraband of war;

"Second, neutral goods not contraband of war are not liable to confiscation under enemies' flag.

"Third, blockades, in order to be binding, must be effective."

12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:

Without the power to raise and support an army the power to declare war would be useless. That the army may be effective in time of war, a small standing army in time of peace is necessary. From 1866 to the late war the standing army numbered 25,000 men, but the war in the Philippines has made an increase in the number necessary. Under the advice of Hamilton, a military training school was established at West Point.

13. To provide and maintain a navy:

The navy has always been the pride of the American people and it has been much easier to build up a large and effective navy than to increase the standing army.

When George Bancroft was secretary of the navy he induced congress to establish the Naval Academy at Annapolis.

14. To make rules for the government and regulation of the land and naval forces:

This clause put the army and navy under the control of civil authorities, and lessens the dangers of a standing army.

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions:

Since it has been the policy of the nation to have a small standing army, it was necessary to provide for some speedy method of recruiting the army with trained men, when an emergency demanded immediate

action. In the war with Spain the greater part of the volunteer portion of the army was recruited from the militia of the States. In the war of 1812, some of the States claimed that the militia could not be called into service of the United States until their section of the country was invaded, but in 1898 not a State made such a claim.

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress:

A law passed in 1795 gave the president power to call out the militia at his own discretion. "While in actual service, the militia are paid the same as the regular troops and are subject to the same rules." Every able-bodied male citizen of the United States between the ages of 18 and 45 may be required to do military duty as a member of the militia.

17. To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of congress, become the seat of government of the United States; and to exercise like authority over all places purchased, by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings:

Congress exercises absolute authority over the District of Columbia. The residents have no right to

vote nor any voice in the government of the district; the president is the chief executive and congress is the only legislative body, yet Washington is one of the best ruled cities in the world.

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof:

This clause is the virile and the most important of the eighteen clauses and has caused more discussion than all the rest of the constitution. This clause has made political parties possible. Two words of the above clause have caused all the discussion. One class of statesmen argued that a law must be absolutely *necessary* to be constitutional, while another class held that a law which is *proper* is constitutional. Jefferson and Madison were strong advocates of the doctrine that the government could do just what the constitution said it might do, and nothing else. The constitution gave congress power to establish post-roads, but it did not say anything about building roads; therefore with a strict construction of the constitution congress could establish a post-road over the Alleghany mountains but could not pay a man for "blazing" a way through the forest; again, it could establish a post-road over the Rocky Mountains, but could not aid in the building of the Union Pacific. Men who have held this belief have been called "strict constructionists".

Hamilton was the author of the doctrine of implied powers. He held that the power to establish a post-

road carried with it the power to build the road. Those who have agreed with him have been called "loose constructionists".

These tests have been applied to every clause in this section of the constitution. But the party in power has always conducted the government on loose construction principles, while the party out of power has stood for strict construction principles, no matter what had been its previous belief.

CHAPTER VI

EXECUTIVE DEPARTMENT

NATION

The chief executive power is vested in the president.

Qualification.—A person must be 35 years of age, a natural born citizen, and must have resided in the United States fourteen years, to be eligible to the office of president.

Election.—On the first Tuesday after the first Monday in November of every fourth year, presidental electors are chosen in all the states, each state choosing as many electors as it has senators and representatives in congress.

On the second Monday of the following January, the electoral college is held; that is the electors of each state meet at their respective capitals and cast their votes for president and vice-president. Three records of the vote cast are made; one is deposited with the clerk of the nearest United States district court; the other two are sealed and sent to the vice-president—one by mail, the other by messenger—who retains them until the second Wednesday in Feb-

STATE

The chief executive power is vested in the governor.

Qualification.—To be eligible to the office of governor, one must be an elector of the state. Any one who is convicted of an embezzlement of public money is ineligible to any office,

Presidential electors of the state of Ohio.—At present the people of Ohio elect twenty-three electors who meet at the capitol in Columbus. If there is a vacancy in the office of elector the remaining electors in the presence of the governor may fill the vacancy, but if there is a tie vote the governor determines the matter by lot.

The proposition to elect the president by a direct vote is not likely to gain favor in the small states. Compare the power of Wyoming with New York. Wyoming has three electors and New York thirty-six or only twelve times the voting power of Wyoming. Under an election by the people New York would exert an hundred times the power of Wyoming.

ruary, when they are opened in the presence of both houses of congress and counted and the result declared.

Term of office.—The president is inaugurated on the fourth of March next succeeding his election, and serves four years, but his term ends on March the fourth, whether his successor has been chosen or not. Salary, $50,000 a year.

Executive duties and powers.—He is commander-in-chief of the army and navy and of the state militia when it is in the service of the United States. He nominates his cabinet, the diplomatic corps, the judges of the federal courts, and many other executive officers. He has power to grant reprieves and pardons for any offence against the United States before or after conviction, except in cases of impeachment.

Legislative powers and duties.—When a bill has passed both houses of congress it is sent to the president for his consideration. If he approve of the measure he signs the bill, which then becomes a law. But if he does not favor the bill he vetoes it; that is, he returns it without his signature to the house in which it originated, together

In 1804 Ohio for the first time participated in the election of the president of the United States.

Term of office.—The governor holds office two years from the second Monday in January next succeeding his election and until his successor is duly elected and qualified.

Salary, $8,000.

Executive duties and powers.—He is commander-in-chief of the militia when it is not in the service of the national government. He nominates by and with the consent of the senate the administrative boards of state institutions and fills vacancies in certain offices. He has power to grant reprieves and pardons after conviction for all offenses except treason, and in cases of impeachment, but must make a detailed report of each case of clemency to the legislature.

Legislative powers and duties.—Under the territorial form of government the governor had absolute veto power. He often exercised this power in a way that was offensive to the members of the legislature and to the people of the state. When the constitutional convention met in 1802, the governor was shorn of all legislative power. Three

with his objections. Or if he retain the bill more than ten days it becomes a law without his signature, But if congress should adjourn before the ten days have expired and the president does not sign the bill it fails to become a law. This is called a "pocket veto".

In treaty making the president through the secretary of state formulates a treaty, which, when ratified by two-thirds of the senate, becomes a law of the land.

The president has made law under the plea of "war necessity". The "emancipation proclamation" was a case of presidential legislation. The laws passed by the Taft commission to the Philippine islands are enacted in the name of the president.

Judicial duty and power.— When a court-martial has tried an offender against the military or naval law, it is the president's duty to review and approve or disapprove the findings of the court. This is purely a judicial act. After approval he may use executive clemency and pardon the offender or commute the sentence.

other states do not allow the veto power, they are Rhode Island, Delaware, and North Carolina. Many people of Ohio believe that the constitution should be so amended that the governor might offer a check to hasty legislation by use of the veto power.

In 41 states the governor has the veto power, but the legislature may pass a bill over the veto by a two-thirds vote. In large bodies it is difficult to place the responsibility for vicious legislation, but the governor, who is elected by the whole people, cannot shift responsibility for bad laws enacted during his incumbency in office if he have the veto power.

Several efforts have been made to amend the constitution but the members of the general assembly are so jealous of their powers that they have absolutely refused to submit an amendment to the people.

Judicial duty and power.— When a member of the militia violates the military laws of the state he is tried by a court-martial, and the governor must approve or disapprove the findings of the court. As in the case of the president, he may use his executive power after he has exercised his judicial power.

Order of succession.—If both the president and vice-president should die or become unable to act as president, then the office would devolve on the cabinet in the order named below, excepting the secretary of agriculture. If the secretary of state did not possess the necessary qualifications then the office would pass to the secretary of treasury, and so on.

Secretary of state.—The original copies of treaties, laws, all foreign correspondence, and the great seal of the nation are in his custody. Under the direction of the president, he conducts foreign affairs of the government. As early as 1775 the continental congress established a committee whose duty corresponded to that of the secretary of state. Thomas Jefferson was the first secretary of state. Each member of the cabinet receives $8,000 annually.

Secretary of the treasury.—He prescribes forms of keeping public accounts and has general supervision of the finances of the government. He issues warrants on the treasurer for money appropriated by congress. There are in this department six auditors who audit the accounts against the government, and a register who is the book-

Order of succession.—In case of the death, impeachment, or resignation of the governor, the following officers would succeed to the office of governor in the order named: the lieutenant-governor, and the speaker of the house of representatives.

Secretary of state.—He has charge of the original copies of all laws; of these he prepares copies for publication and distribution among the proper officers throughout the state. He is the supervisor of elections. He conducts all official correspondence with other states and with the United States.

Term, two years.

Salary, $2,000 and compensation for extra work, not exceeding $1,000. Bond $100,000.

Treasurer.—He has charge of all money belonging to the state and cannot pay out or receive money without the written order of the auditor, who examines quarterly, the treasury and reports its condition to the governor. Bond, $600,000; salary, $3,000; term, two years.

Auditor.—He audits and settles all accounts against the

keeper of the government, and two comptrollers who examine the work of the auditors. The secretary of the treasury must not be interested in trade.

Secretary of war.—He has charge of the affairs of the army under direction of the president.

He superintends the purchase and distribution of supplies and military stores.

All river and harbor improvements are under his direction. For convenience his department is divided into ten bureaus, each having its special duty.

Attorney-general.—It is his duty to give legal advice to the president and the heads of departments.

There are a number of assistants in this department who aid in the prosecution of all cases before the supreme court or court of claims, to which the United States is a party.

Postmaster-general.—He has general supervision of the mail.

Dr. Franklin was appointed to this office in 1775 by the continental congress.

Secretary of the navy.—Under the direction of the president, the secretary of the navy has charge of all naval affairs.

Secretary of interior.—This department issues patents, takes state, draws all warrants upon the treasurer, and keeps all accounts between the state and treasurer. Bond, $20,000; salary, $2,000.

Adjutant-general.—He has charge of the militia under the direction of the governor. He has the rank of brigadier-general and issues all orders from the commander-in-chief, and in time of peace he also serves as quartermaster-general. He is also superintendent of the capitol and grounds. He receives a salary of $2,000 a year.

Attorney-general.—He is the legal adviser of all state officers and prosecuting attorneys of the several counties. He represents the state in all cases before the supreme court to which the state is a party.

He holds office two years and receives $1,500 annually, and may receive fees not to exceed $1,500.

Board of public works.—This board has charge of public

the census, and looks after public lands and interior affairs.

The *commissioner of education* is an officer of this department. He gathers statistics concerning the progress of education and publishes reports that are helpful to teachers.

The *pension bureau* is under the immediate control of the commissioner of pensions. Since the beginning of the civil war this department has paid to invalid soldiers $2,562,974,010, an amount larger than the public debt. This department has vast interests to superintend.

Secretary of agriculture.—This officer's duty is stated in the law as follows: "To diffuse among the people useful information on subjects connected with agriculture."

works and improvements. It was much more important when the canals of the state were more extensively used. The board consists of three members, one elected annually, to serve three years.

The *commissioner of common schools* is the head of the public school system. He has supervision over the school fund and officers and generally directs the school affairs of the state. He appoints the state board of examiners. He holds office three years and receives a salary of $2,000.

Food and diary commissioner.—It is this officer's duty to inspect articles of food and to prosecute all persons who offer for sale any adulterated food.

The above named executive officers are elected by the people, with the exception of adjutant-general who is appointed by the governor.

Any vacancy in a state office is filled by appointment by the

governor. If the office in which the vacancy occurs is an elective one the appointee holds office until a successor is elected at a regular election and is qualified.

The affairs of the state require many minor officers to safely guard the rights of the people.

CHAPTER VII

JUDICIAL DEPARTMENT

NATION

Judicial duty.—It is the duty of the court to apply the law, to declare it void when it is not in harmony with the constitution, to declare what is the law, and to interpret the law.

Executive duty.—The court is allowed to appoint some of its executive officers, the clerk, court reporter, etc.

Legislative duty.—The accepted theory is, that the courts have no legislative power.

Professor Ely, in his "Socialism and Social Reforms", has called attention to the result of the modern tendency to enlarge our constitutions unduly, "the result * * * has been to enlarge unduly the functions of the judiciary;" "and it is unfortunate for society to entrust to judges what are, in reality, legislative functions," the provisions are more or less general and the judges must say what they mean in special cases, and then apply them according to their own judgment.

STATE

As the same discussion of the three duties of the judicial department of the nation is generally true of the state it is not given here, but a discussion of jurisdiction follows. These definitions hold for all courts of state and nation.

Jurisdiction.—Jurisdiction is the right or power of a court to hear causes and execute justice. The jurisdiction of a court is the limitation put upon it by the constitution or statutes, and extends to persons, places, and causes. Jurisdiction is of two kinds—appellate and original. The court in which a cause must originate is said to have original jurisdiction. The court that may review a cause decided by a lower court has appellate jurisdiction. When an appeal cannot be taken from the decision of the court, it is said to have final jurisdiction. When two courts have jurisdiction over the same causes, they are said to have concurrent jurisdiction. Either

In discussing the common law, Walker says "Theorize as we may, it has been made from first to last by judges." "It is the stupendous work of *judicial legislation*." He supposes a case presented to the court for which there is no law, either statutory or common, and no case analogous to it can be found, the judge "must either let a wrong go unredressed, or make a law to meet the exigency."

The great body of law is not found in statutes and constitutions but in the reports of judicial decisions. See Appendix A.

Judicial power is vested in the senate, acting as a high court to try cases of impeachment, in the supreme court and inferior courts formed by congress, and in court martial.

The supreme court is provided for by the constitution but congress has established the inferior courts.

Senate.—The senate tries all cases of impeachment. When the senate is sitting as a court the members are on oath to do justice. One president and several judges have been impeached, but the senate failed to sustain the impeachment of the president.

the statute or the constitution specifies what is the extent and kind of jurisdiction that the different courts may exercise.

There are two ways of transferring a case to a court of appellate jurisdiction, by *appeal* and by a *writ of error*. When a case is appealed, the court having appellate jurisdiction tries the whole case without reference to the proceedings of the former court.

But when a case is carried upon writ of error the higher court has jurisdiction of questions of law only.

Judicial power is vested in the senate, in a supreme court, circuit court, courts of common pleas, courts of probate, courts of the justices of the peace, and in other inferior courts, established by the legislature.

Senate.—The senate has exclusive jurisdiction of all cases of impeachment. The senators when sitting as judges are on oath or affirmation to do justice. As in the nation, the concurrence of two-thirds of the senators is required to convict. Several judges have been convicted on the impeachment of the house and removed from office.

Supreme court.—The supreme court is composed of a chief justice and eight associate justices, appointed by the president, to serve during good behavior. The chief justice receives $10,500 and associate justices, each $10,000.

Chief justices of the United States.—John Jay served 5 years, John Rutledge served 3 months, Oliver Ellsworth served 3 years, John Marshall served 35 years, Roger B. Taney served 28 years, Salmon P. Chase served 9 years, Morrison R. Waite served 13 years, Melville W. Fuller, the present chief Justice, has served since 1888.

Executive duty.—The court appoints its clerk, reporter, and marshall, who are the executive officers of the court.

Jurisdiction.—The supreme court has original jurisdiction of all cases that affect ambassadors and other foreign representatives and of cases to which a state is a party.

It has appellate jurisdiction in all cases involving the jurisdiction of a lower court, infamous crimes, the construction of the national constitution, the

Supreme court.—Six justices elected by the people constitute the supreme court.

The term of office is six years and salary is $5,000. The judge whose term first expires is chief justice, provided that he has been elected for the full term of six years.

But the law provides for two divisions of the court, each composed of three members. The unanimous decisions of either division are final except in cases involving the constitutionality of an act of the general assembly or a law of congress, which must be passed upon by the whole court. The legislature has failed to provide extra rooms for the courts, hence the court still sits as one body.

Executive duty.—The judges appoint a reporter, a law librarian, and a stenographer who shall act as executive officers of the court.

Jurisdiction.—The supreme court has original jurisdiction of all cases of quo-warranto and mandamus as to all state officers, and in habeas corpus, and procedendo. A quo-warranto is a writ from the court requiring an officer to show by what authority he holds office, or requiring a corporation to show by what right it exercises cer-

constitutionality of the law of congress or of a state, and the meaning of a treaty.

Circuit courts.—The United States is divided into nine circuits and two judges appointed for each circuit; one additional judge is appointed in each circuit except the first and fourth. There are twenty-five circuit judges.

The supreme court allots one of the supreme court justices to each circuit; in reference to his circuit duties he is called circuit justice; while the other members of the court are called circuit judges. A district judge may act as a circuit judge. Court may be held by any one of the judges, or by any two of them.

These courts have original jurisdiction in civil cases where the amount under dispute is more than $2,000, and in many other cases; and have exclusive jurisdiction in cases where a capital crime has been committed. They have no appellate jurisdiction.

tain powers. Mandamus is a writ commanding an inferior court or other officer or corporation to perform certain acts.

The appellate jurisdiction of the supreme court extends to questions of error in applying the law in lower courts. The court is not required to inquire into facts in the case.

Circuit courts.—The state is divided into eight circuits. There are three judges elected for each circuit. They serve six years and receive a yearly salary of $4,000. The judge having the shortest time to serve, provided that he has been elected for the full term of six years, presides when the court is in session. The court must hold two sessions in each county in each year. This court has like original jurisdiction with the supreme court, and may issues writs of supersedeas and all other writs not specially provided for or prohibited by the statutes. The *appellate* jurisdiction extends over a wide range of causes. The court has *final* jurisdiction in all civil cases where amount involved, exclusive of costs, is $300 or less.

A special court called the *circuit court of appeals* has been provided to hear appeals from the district and circuit courts. They may review many of the decisions of these courts and in many cases their decisions are final; as in patent, revenue, and criminal cases. Each court has three judges, any two of whom constitute a quorum. The circuit justice, the circuit judges and the district judge of any circuit are competent to sit in this court. But the district judge can sit only in the absence of one or more of the other judges. The salary of a circuit judge is $6,000.

District court.—The United States is divided into eighty districts, but only seventy-six district judges have been appointed. This court has original jurisdiction over civil cases where the amount involved is less than $2,000, and over many of the crimes committed under the law of the nation. Salary of district judge is $5,000.

In 1789 congress passed a law organizing inferior courts. While it established the circuit and district courts it provided for only two sets of judges,—judges of the supreme and district courts. The circuit court was held by a supreme and district judge.

District or court of common pleas.—The state has been divided into ten judicial districts, and each district except the first has been divided into three subdivisions. There are about eighty common pleas judges in the state, and they receive from the state treasury $2,500. Some of the judges receive additional compensation from the treasury of county or city in which they reside.

This court has *original* jurisdiction in all civil cases when the amount in dispute exceeds one hundred dollars, and in all crimes and offences, except in minor offences; and *appellate* jurisdiction from the decision of

Commissioner.—To lighten the burdens of the courts and bring justice closer to the people, congress has provided commissioners who correspond to justices of the peace in the states.

Accused persons are taken before a commissioner who determines whether the prisoner shall be held for the United States grand jury, and has jurisdiction in inferior maritime questions.

He is appointed by the circuit judge, who may appoint as many commissioners as his judgment dictates. Their jurisdiction extends to the state in which they live. They receive fees for their services.

Other courts.—The creditors of the nation can not sue it, but congress has established the *court of claims*, to try certain claims against the United States. When this court determines the government owes the amount congress must appropriate the amount of the claim before it can be paid.

A special court has been

county commissioners, justices of the peace, and other inferior courts in the county where court is being held.

Justices of the peace.—This officer presides over a township court. This court has exclusive original jurisdiction in all civil cases, when the amount involved does not exceed $100. He has jurisdiction over all offenders against the law, and can require them to be brought into his court, when in some minor cases he may make final disposition of the case, but in the more important cases, if satisfied of the prisoner's guilt, he commits him to jail or releases him on bail to await the meeting of the grand jury of the common pleas court.

The civil jurisdiction extends to the township in which the justice resides and hold his court, but in criminal cases his jurisdiction extends to the county.

Other courts.—The probate court has jurisdiction over matters pertaining to settling of estates, to insolvency, to guardianship, etc. For further particulars see chapter on county officers.

In the larger counties or cities

formed for the District of Columbia and each territory has a complete system of courts.

Executive officers.—The executive officers of the different courts are the marshal, the clerk, and the court reporters. The marshal serves the writs and subpœnas and brings criminals into court; the marshal of the circuit and district courts is appointed by the president.

The clerk, who is appointed by the court, keeps a record of all cases brought before the court, and the disposition made of the same. The court reporter is appointed by the court. It is his duty to report and publish the decisions of the court.

other courts are established to relieve the regular courts.

Executive officers.—The chief executive officers of the courts are sheriff, clerk, reporter, and constable. The duties of these officers will be given below. The reporter is appointed by the court; but the sheriff, clerk, and constable are elected.

The elerk of the supreme court is elected triennially by the electors of the state. His duties correspond to other clerks of the courts. His salary is $1,500.

CHAPTER VIII

THE COUNTY, TOWNSHIP, VILLAGE, ETC.

The county.—The political unit of Ohio is the county. The constitution requires that each county contain not fewer than four hundred square miles; and that all laws creating new counties, changing the boundaries of the counties, removing county seats, shall be approved by a majority of the electors of the counties affected before they may become valid.

The first ten counties were erected by the territorial governor's proclamation, but their boundaries have been changed. The first county was Washington and the last Noble.

The county is a miniature state, exercising all the powers of government. The right to perform these powers has been delegated to the counties by the general assembly. In form of government it is a delegated, limited oligarchy, the county commissioners being the real rulers. But in spirit the county is a very democratic institution.

County Officers

County commissioners.—In each county there are elected three commissioners, who exercise executive, legislative and judicial duties. One is elected each year to serve for a term of three years.

Legislative duty.—The commissioners levy taxes and determine how the money shall be spent. They

order roads to be constructed and bridges and buildings to be built. The general assembly has delegated to the county commissioners power to legislate in many matters of local interest.

Executive duty.—The commissioners fill any vacancy that may exist in the following county offices: Clerk of the common pleas court, coroner, auditor, infirmary director, treasurer and recorder.

They oversee public improvements and appoint certain persons to take care of public property, examine and compare the accounts of county auditors and treasurers. They may compound or release a fine in whole or in part. (See Sec. 855 Bates Revised Statutes, Third Edition.)

Judicial duty.—The county commissioners must try every account against the county, except in cases where the amount is fixed by law or determined by some other officer. The proceedings of the board are in many respects those of a court of special and inferior jurisdictions.

Sheriff.—It is the sheriff's duty to preserve the peace, to serve and execute all processes, writs, precepts, and orders issued by any court of record in the state. He holds office for two years. He may call on any able-bodied man to aid him and may appeal to the governor for the aid of the militia, in supressing a riot or protecting life and property.

Probate judge.—In the office of the probate judge wills are probated, executors and administrators are

appointed to settle estates of deceased persons, assignees are appointed to settle the estates of insolvent persons. Licenses to solemnize marriages are granted to ministers, and marriage licenses are issued. In many counties the probate court has jurisdiction of all misdemeanors. The judge serves three years and a vacancy is filled by the governor.

Auditor.—The auditor is the secretary of the board of county commissioners. He has charge of the finances of the county; he makes a record of the assessment of property by the assessor and computes the amount of tax each property owner must pay. The treasurer must receive the auditor's order before he can receive or disburse money. He is elected triennially.

Treasurer.—The treasurer receives on the certificate of the auditor all money due the county from taxes or any other source, and pays out the same on the order of the auditor. He serves two years.

Recorder.—Triennially there is elected in each county a recorder whose duty it is to record all deeds, mortgages, leases, and plots and maps of towns or lands. If the purchaser of land fails to have his deed recorded and the vendor gives another deed to a person who is not aware of the first deed and the second deed is first recorded the second purchaser may hold the property. Mortgages are valid from the time that they are filed for record, in the order filed.

County surveyor.—The county surveyor serves three years. A vacancy in the surveyor's office is filled

by the court of common pleas, if in session, but if the vacancy occurs during the vacation of the court, it is then filled by the county commissioners. The surveyor makes all official surveys and keeps in his office records of the same. He may be employed to do work for private parties.

Clerk of the court of common pleas.—Triennially the electors of each county choose a clerk of the common pleas court, who is ex-officio clerk of the circuit court for his county. It is his duty to keep a record of all orders, decrees, judgments and proceedings of the courts of which he is the clerk.

Prosecuting attorney.— Only an attorney and counsellor of law duly licensed to practice in the courts of Ohio is eligible to the office of prosecuting attorney. He is elected triennially; a vacancy in his office is filled by the court of common pleas. It is his duty to prosecute, on behalf of the state, all complaints, suits and controversies to which the state is a party and to give legal advice to the other officers of his county.

Infirmary directors.—In counties having a home for the poor, there are elected three infirmary directors, one each year, to serve for three years. They appoint a superintendent of the infirmary and have general oversight of the poor of the county. They levy taxes for the support of the poor.

Salaries.—The salaries vary in the different counties to such an extent that it is impossible to give the salaries of the several officers of the county. Blank spaces are left that the student may note the facts pertaining to his county.

TOWNSHIP

Trustees.—The trustees are the most important officers of the township. They possess legislative, executive and judicial powers. They hold office for three years, one being elected each year. Each trustee receives $1.50 per day while actually employed in official duty. But there is a limit to the amount a trustee may receive, depending on the population of the township.

Legislative duty.— The trustees have power to divide the township into road districts and to determine the number of road supervisors and constables, to fix the rate of taxation for township purposes, to appropriate money for purchasing the necessary tools for road building, etc., to fix the compensation of certain township officers. But the trustees must not appropriate money until it is actually in the treasury of the township.

Executive duty.—The trustees have power to fill vacancies occurring in any township office except that of trustee, all appointees to hold office until the election and qualification of their successors. They execute or superintend the execution of their orders. They may appoint library trustees, cemetery trustees and sextons and persons to take care of township

property. It is their duty to preserve the peace at all elections.

Judicial duty.—While sitting as judges of election, they determine who is entitled to vote. When complaint has been filed with the trustees that any owner of land has failed to cut the brush, briers or noxious weeds along his partition fences, after thirty days notice, they repair to the place complained of and decide whether the owner has failed to obey the law; if he has, they have the work done and charge the costs against his property as taxes.

Board of education.—Each township is a school district which is divided into sub-districts. The qualified electors of each sub-district elect a director to serve for a period of three years. The board of education is composed of these directors, one-third of the board being elected each year. This board exercises the three governmental powers.

Legislative duty.—The board levies taxes and appropriates money for school purposes. It divides the township into sub-districts. It can establish central schools and order the pupils conveyed thereto. It has power to adopt a course of study and to make rules for the government of the school.

Executive duty.—The board chooses the text-books, selects sites for school-houses, purchases apparatus, fuel, etc.

Judicial duty.—The board investigates the conduct of the teacher and determines whether he has exceeded his authority or failed to do his duty.

The township clerk is *ex-officio* clerk of the board of education. In case of a tie vote, he has right to cast the deciding vote.

Sub-directors.—In each sub-district in addition to the director, two sub-directors are chosen. These three form a sub-board which chooses the teacher and has immediate control of the school.

Clerk.—The clerk corresponds to the county auditor. He is the secretary of the board of trustees and of the board of education. He keeps a detailed account of the receipts and expenditures of the two boards. He draws all orders on the township treasurer. His orders for township money must be countersigned by two trustees; and for school money, by the president of the board of education. His salary is fixed by the township trustees. Term of office, two years.

Treasurer.—He has charge of all township money and pays out the same on the order of the clerk. He receives fees for his services. He holds office two years.

Assessor.—This officer lists all the taxable property in his township or precinct and determines the value thereof. He is also required to collect statistics of agriculture, mining, etc. The compensation is two dollars per day while actually engaged in the performance of his duty. This officer is elected annually.

Constable.—He is the executive officer of the justices court. He makes arrests, serves summons and writs and preserves the peace of the township. He is elected to serve three years and his salary is allowed in part by the trustees, the rest coming from fees.

Road supervisor.—Each township has one or more road supervisors. They keep the roads in proper repair. They are elected annually.

MUNICIPAL CORPORATIONS

There are three classes of municipal corporations: Cities, villages, and hamlets. The statutes determine the population necessary that a town may be classed as a city, village or hamlet. All towns having a population of over 5,000 inhabitants may be incorporated as cities, and those towns whose population lies between 200 and 5,000 inhabitants, as villages. Any town having fifty electors may be incorporated as a hamlet. The cities and villages are divided into grades according to population. Cities and villages are divided into four classes and villages into two. When a hamlet, village or city has the necessary population as ascertained by federal census or by a special census, the electors may by an affirmative vote order the corporation to be advanced in grade.

A city may, on an affirmative vote of its electors, be reduced to a village and a village may be reduced to a hamlet or it may surrender its incorporate powers.

The hamlet.—The hamlet has the simplest form of government. The officers of a hamlet are three trustees who serve for three years, a clerk and a treasurer, each of whom shall hold his office for two years, and a marshal and a supervisor, each of whom is elected annually.

The **trustees** are the chief governmental body. They may pass laws to protect property, to regulate taverns, to suppress riots and noise, to regulate ped-

dling, to promote good order and prosperity, to improve the morals and so on.

The president of the board is the judicial officer of the hamlet, with the same jurisdiction as is conferred upon mayors of villages in all civil and criminal cases.

The clerk keeps a record of all the proceedings of the trustees and draws all orders on the treasurer of the hamlet when ordered to do so by the trustees.

The treasurer has charge of all funds belonging to the hamlet.

The marshal is chief of police and has the power of marshals in villages. The trustees may require him to perform the duty of the supervisor who has charge of the repairs and construction of streets.

Villages.—The officers of the village are mayor, clerk, sealer of weights and measures, treasurer, marshal, councilmen, solicitor, and street commissioner.

The legislative power is vested in a council, consisting of six members unless the incorporation is divided into three or more wards, when it shall consist of two members from each ward.

The revised statutes enumerate the powers of villages and cities under forty titles, which include nearly every subject of distinctly local interest.

The mayor, as a judicial officer, has final jurisdiction in the prosecution of all violations of the ordinances of the village unless the penalty is imprisonment. In certain cases he is required to call a jury to hear the trial and determine the questions of fact.

As a legislative officer he is president of the council and casts the deciding vote in case of a tie. As an

executive officer he has general direction of the enforcement of the law.

The sealer of weights and measures has general supervision of all weights and measures in the village.

The duties of the other officers are so obvious that they are not given here, but blank spaces are left that the student may after investigation record their duties, salaries, terms of office, etc.

Clerk.

Treasurer.

Marshal.

Solicitor.

Street commissioner.

Village and school districts.—A village and part of the surrounding county may be erected into a village school district, which has a board of education with powers similar to those exercised by the township board.

The student should fill out the following blank spaces:

Legislative duty.

Executive duty.

Judicial duty.

The board elects a superintendent who is legislator, judge and executor. The school system is a limited monarchy in form.

Cities.—Owing to the manifold interest of a city, its government is very complex. The legislative branch is generally composed of one body called the council, but a few cities possess a legislative branch of two bodies, the board of aldermen and the board of councilmen.

The chief executive officer is the mayor, who has the right to veto certain bills passed by the legislative body. But in the cities his duties are generally executive.

The police courts have been established to relieve the mayor of his judicial duties.

The cities vary to such an extent that it is almost impossible to write a general statement that will be true in all particulars for more than two or three cities.

CHAPTER IX

Miscellaneous Provisions—Suffrage

"The crowning fact,
The kingliest act
Of freedom is the free man's vote."—*Whittier.*

Those persons that vote for the members of the house of representatives of the state legislatures are electors for the election of national officers. The only restriction put upon the state is found in the fifteenth amendment to the national constitution, which forbids the restriction of suffrage "on account of race, color, or previous condition of servitude." In general every male person that is twenty-one years of age and a citizen of the United States, who has been a resident of the state for one year and of a county sixty days, has the right of suffrage. The only male persons denied the right are idiots, insane persons, and persons convicted of crime who have not been restored to citizenship by pardon of the governor.

The constitution provides that "every white male citizen of the United States" who has been a resident of the state for one year next preceding the election and complies with the further requirements of the statutes shall be an elector. The statutes require a residence of thirty days in the county and twenty days in the village, ward or township. But if the head of the family has the other qualifications he may move with his family from one ward to another, from one township to another or from one village to another and be entitled to vote without having resided therein

the twenty days. But he cannot move into a village or city and vote at a municipal election unless he has resided in such village or city twenty days prior to such election. Women may vote at school elections provided they have the same qualifications required of men.

Election.—The national government leaves the control of the election of presidential electors and representatives to the state in which the election is held. In this state the election for state and national officers is held on the first Tuesday after the first Monday in November.

The Australian ballot is used in Ohio, as well as in a majority of the other states of the union. This ballot contains all the party tickets. The party having the largest vote at the last preceding election has its ticket first on the ballot, the other party tickets follow in the same relative order. When an elector enters the voting place he is given a ballot which he must mark in secret and hand to one of the judges of the election, who deposits it in the ballot box. This ballot gets its name from a similar ballot used in Australia. Its special features are its secrecy, its having the tickets of all parties on the one ballot, and the voter's designation of his choice of party or candidate by a cross.

Alien's rights.—The law gives aliens the right to hold property on the same conditions that govern the rights of citizens.

Right of eminent domain.—The doctrine that was held during the feudal age was that the government owned all the land and the individual could not

sell his real estate, but the ruler might take it for his own use or might give it to some one else. As the people gained rights they began to limit the power of the government over real estate. By the constitution of Ohio, real property can be taken for public purposes,—reservoirs, drains, flumes, or ditches, but the owner must receive due compensation for his property.

Common carriers.—All corporations engaged in the transportation of persons, property, mineral oils, and mineral products, are common carriers. A common carrier must carry the property of all citizens without discrimination.

Amendments. — By a two-thirds vote of each house, congress may propose amendments to the constitution of the United States. Or if the legislatures of two-thirds of the several states request it, congress must call a constitutional convention to propose amendments. Before any amendment may become a part of the constitution, it must be ratified by three-fourth of the states.

The constitution further provides that no amendment shall deprive a state, without its consent, of equal representation in the senate.

Amendments.—A proposition to amend the constitution of Ohio may be made in either branch of the legislature. If the same shall be agreed to by three-fifths of all the members of each house, it shall be submitted to the people at the next general election for senators and representatives. If the majority of the electors vote for the proposed amendment, it becomes a part of the constitution. When two-thirds of the members of each house vote to call a constitutional convention, they must submit the measure to the people for their consideration, and a majority of the electors must vote for the bill before a constitutional convention can be held. This follows the principle of the referendum.

Governor of Northwest Territory

Arthur St. Clair.

Governors of Ohio

Edward Tiffin,	William Medill,
Thomas Kirker,	Salmon P. Chase,
Samuel Huntington,	William Dennison, jr.,
Return J. Meigs,	David Todd,
Othniel Looker,	John Brough,
Thomas Worthington,	Charles Anderson,
Ethan Allen Brown,	Jacob D. Cox,
Allen Trimble,	Rutherford B. Hayes,
Jeremiah Morrow,	Edward F. Noyes,
Allen Trimble,	William Allen,
Duncan McArthur,	Rutherford B. Hayes,
Robert Lucas,	Thomas L. Young,
Joseph Vance,	Richard M. Bishop,
Wilson Shannon,	Charles Foster,
Thomas Corwin,	George Hoadley,
Wilson Shannon,	Joseph B. Foraker,
Thomas W. Bartley,	James E. Campbell,
Mordecai Bartley,	William McKinley,
William Bebb,	Asa S. Bushnell,
Seabury Ford,	George Nash.
Reuben Wood,	

The following table shows the political affiliations of the governors:

Democrat-Republicans	8
Federalists	2
Democrats	9
Whigs	5
Republicans	14

APPENDIX A

The following ruling of Judge Stimson of the superior court of Indiana is interesting to the student of civics. The legislature failed to enact a law covering the points of Judge Stimson's ruling, but the court held that it had the right to make the following ruling, which is certainly the exercise of legislative function:

"The lawmakers have thought it wise to make provisions for giving relief to a husband or a wife from the abuse or misconduct of one toward the other. Any one knowing of the brutish and cruel treatment by drunken and dissipated husbands of helpless wives and children, or of the heartless and shameless mothers that are to be found in the community, cannot dispute the wisdom of such laws. The attorney that espouses the cause of the unfortunate and helpless in such cases is doing a noble work and should not be criticised for it. He would be derelict in professional duties to refuse to render assistance in such cases. However, the law does not contemplate that persons entering the marriage relation may sever it at pleasure or by agreement or for slight cause or for the purpose of forming other matrimonial alliances. The children, issues of such marriages, and the good order of the community demand that strong safeguards be thrown about the home and that the sanctity of marriage be

protected and be preserved in its purity. That the evils resulting from the causes mentioned as far as possible be minimized the bar is called upon to exercise the utmost endeavors to ascertain the merits of all such cases before bringing action of this class. To further protect attorneys and the court from fraud and imposition, the court feels justified in adopting the following rule of procedure:

"Hereafter, commencing with the March, 1901, term of this court, divorce cases shall be set for trial on a definite day at least ten days after serving of the process upon the defendant, and the defendant to the cross complaint, if within the jurisdiction of the court, shall be subpœnaed and required to attend and testify at the trial and the case continued until such attendance can be secured.

"That in case of a failure to make an actual bona-fide defense to the charges in the complaint or cross-complaint the court will call the prosecuting attorney to make such defense; and on his failure to do so the court will appoint a member of the bar to defend as amicus curiæ and the fees allowed will be taxed as costs and all costs must be paid before either party is entitled to a decree of divorcement.

"In all cases of default both parties will be prohibited from entering into other marital relations for the statutory period of two years."

QUESTIONS

These questions are intended to point out the chief line of thought of writers and speakers of the present day, and to lead teachers to think and to read. Other books will need to be consulted for the full answers to these questions.

Government

1. What is the government?
2. What act of the people establishes it?
3. Are the people a part of the government? Prove your answer.
4. Name four kinds of government and define each.
5. What is a federal government? A national government? Which is the United States? Which is your state?
6. Was this state a state before its admission to the union?
7. What are the powers that a government may exercise?

Declaration of Rights

1. Look up "Magna Charta", "Declaration of Rights", and "Bill of Rights".
2. Has the constitution of the United States a "Bill of Rights"?

3. What events in history led to the fourth amendment to the United States constitution.

4. Compare the different sections of the "Declaration of Rights" in the state constitution, with the first ten amendments to the constitution of the United States, and study the history of the abuse of power by the English government that led to their incorporation into the fundamental law of the nation, and of the states.

5. Define indictment. Name the capital offenses designated by law.

6. What branch of the government is most likely to violate the constitution? Has the first amendment to the constitution of the United States ever been violated? How and by whom?

7. What is meant by "attainted of treason"?

8. Has the United States or state government the control of monopolies and trusts?

9. What is an "ex post facto law"?

10. Name some of the powers retained by the people and not delegated to the government.

11. Can you commit treason against the state?

LEGISLATIVE DEPARTMENT

1. Name the qualifications and salary of a senator. Of a representative. What is the term of office of each?

2. On what day are they elected? How is a vacancy filled?

3. Make a list of the officers of each house.

4. What constitutes a quorum? How many votes are required to carry a measure?

5. Why should members be privileged from arrest during their attendance at the sessions of their respective houses?

6. Which branch of the government is most likely to violate the constitution? Has the first amendment to the constitution of the United States ever been violated? How and by whom?

7. How many senators and representatives does your county have?

8. What executive power does the senate possess? What judicial?

9. Does the house possess any power other than legislative?

10. How can the legislature be punished for failing to do its duty, or doing something forbidden by the constitution?

11. In how many instances has the legislature failed to carry out the requirements of the constitution?

EXECUTIVE DEPARTMENT

1. State term, salary, and qualifications of governor.

2. What legislative power has the governor? Does he have any judicial power?

3. How is a vacancy in the office filled?

4. Name the other executive officers and give the duty of each.

5. Name the governors of the state.

6. How can the governor be punished for failing or refusing to do his duty?

Ask the same questions concerning the president.

JUDICIAL DEPARTMENT

1. In what bodies is the judicial power vested ?
2. Define appellate jurisdiction, and original jurisdiction.
3. What is the term and salary of a member of the supreme court ?
4. What determines who shall be chief justice ?
5. Name the duties of the district judge. What is his salary ?
6. How many districts in the state ?
7. What are the powers of the justices of the peace ?

SUFFRAGE

1. What are the advantages of universal suffrage ? The disadvantages ?
2. Under what conditions is an elector privileged from arrest ?
3. What are the qualifications of an elector ?

EDUCATION

1. How is money obtained for the support of the schools ?
2. Who has charge of the unsold lands given for school purposes ?
3. What are the provisions for higher education ?

MISCELLANEOUS

1. How may the seat of government be changed ?
2. Who owns the water of the state ?

3. What determines the better right to the use of water?
4. Who are prohibited from working in the mines?
5. Can a trust do business in the state?
6. What is meant by right of eminent domain?
7. What are common carriers?
8. Could the state determine its own boundaries?
9. What property may be exempted from taxation?
10. What are the limitations on taxation?

Maps and Political Directory

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Civil Government of Ohio, 1902

TOWNSHIP OFFICERS

Trustees .....

.....

.....

Clerk.....

Treasurer.....

Justices of the Peace .....

.....

.....

Constables .....

.....

.....

COUNTY OFFICERS

Commissioners { ....
....
.... }

Sheriff..... .....

Auditor..... .....

Probate Judge..... ....

Clerk..... .....

Treasurer..... .....

Recorder..... .....

Prosecuting Attorney.....

Infirmary Directors { .....
....
..... }

Surveyor..... .....

District Officers

Judge of Common Pleas .....

Representative to General Assembly.....

Senator..... .....

OHIO STATE OFFICIALS

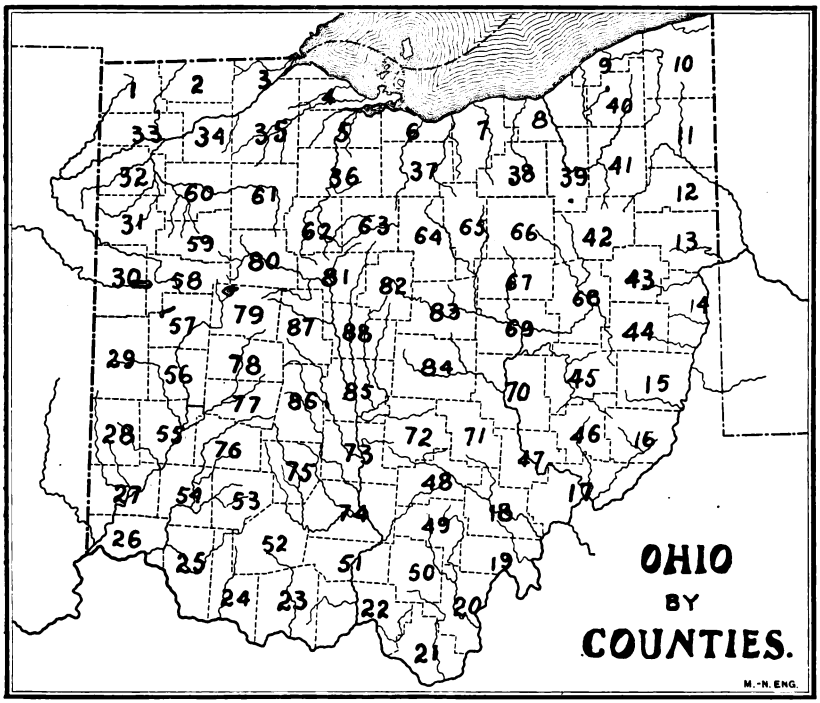
Elected by the People	*Term Expires*
Governor, George K. Nash	2d Monday in January, 1904
Lieutenant-Gov., Carl L. Nippert	" " " " 1904
Secretary of State, Lewis C. Laylin	" " " " 1903
Auditor of State, Walter D. Gilbert	" " " " 1904
Treas. of State, Isaac B. Cameron	" " " " 1904
Attorney-General, John M. Sheets	" " " " 1904
Board of Public Works,	
Frank A. Huffman	2d Tuesday in Feb., 1903
Charles A. Goddard	" " " " 1904
Washington G. Johnston	" " " " 1905
Judges of the Supreme Court, Marshall J. Williams	Feb. 9, 1903
Jacob F. Burket	" " 1904
William T. Spear	" " 1905
William Z. Davis	" " 1906
John A. Shauck	" " 1907
James L. Price	" " 1908
Clerk of Supreme Court, Lawson E. Emerson	1st Mon. in Feb., 1905
Com'r Common Schools, Lewis D. Bonebrake	2d Mon. July, 1904
Dairy and Food Com'r, Joseph E. Blackburn.	1st Tues. after Feb. 15, 1903

Appointed by Governor and Senate

Adjutant-General, George R. Gyger	January 11, 1904
Sup't of Insurance, A. I. Vorys	June 3, 1902
Com'r of Railroads and Telegraphs, John C. Morris	March 16, 1903
Chief Inspector of Mines, E. G. Biddison	April 29, 1904
Chief Inspector of Work Shops and Factories	" "
State Board of School Examiners, C. C. Miller	Aug. 31, 1906
Appointed by School Com'r, W. H. Mitchell	" " 1905
Myron E. Hard	" " 1904
W. H. Meck	" " 1903
W. W. Boyd	" " 1902

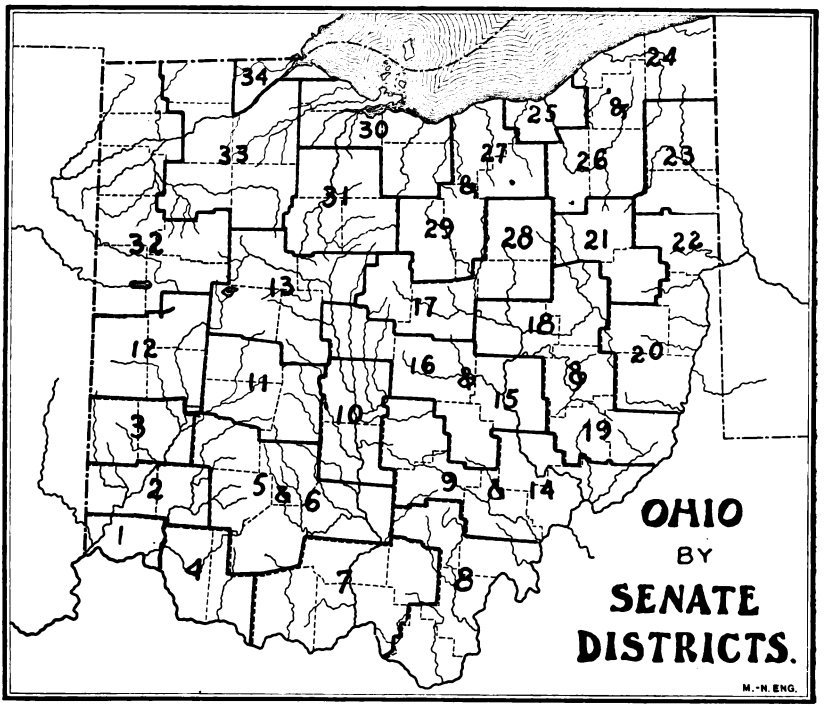
COUNTIES OF OHIO

No. on Map	County	Date erected	Formed from what	Origin of name	County seat
3	Adams	1797	Proclamation	John Adams	West Union
59	Allen	1820	Indian Territory	Col. Allen	Lima
65	Ashland	1846	Richland, Wayne, Lorain, and Huron	Clay's home in Kentucky	Ashland
10	Ashtabula	1807	Trumbull & Geauga.	Indian for "fish"	Jefferson
18	Athens	1805	Washington	Athens, Greece	Athens
58	Auglaize	1848	Allen, Logan, Darke, Shelby, Mercer and Van Wert	Indian for "fallen timber on the river"	Wapakoneta
15	Belmont	1801	Proclamation	French for "beautiful mountain"	St. Clairsville
24	Brown	1817	Adams & Clermont	Gen. Jacob Brown	Georgetown
27	Butler	1803	Hamilton	Gen. Richard Butler.	Hamilton
43	Carroll	1832	Columbiana, Stark, Tuscarawas, Harrison, and Jefferson.	Charles Carroll of Carrollton, Md	Carrollton
78	Champaign	1805	Greene & Franklin	From the surface	Urbana
77	Clark	1817	Champaign, Madison, and Greene	George Rogers Clark	Springfield
25	Clermont	1800	Proclamation	Clermont, France	Batavia
53	Clinton	1810		George Clinton	Wilmington
13	Columbiana	1803	Jefferson and Washington	Columbus and Queen Anna	Lisbon
69	Coshocton	1810		Indian name	Coshocton
63	Crawford	1820	Indian cession	Col. Wm. Crawford.	Bucyrus
8	Cuyahoga	1810	Geauga.	Indian for "crooked"	Cleveland
29	Darke	1809	Miami	Gen. Wm. Darke	Greenville
33	Defiance	1845	Williams, Henry, and Paulding	Fort Defiance	Defiance
88	Delaware	1808	Franklin	Delaware Indians	Delaware
6	Erie	1838	Huron & Sandusky.	Lake Erie	Sandusky
72	Fairfield	1800	Proclamation	Its fair fields	Lancaster [H.
75	Fayette	1810	Ross and Highland.	Lafayette	Washington, C.
85	Franklin	1803	Ross	Benjamin Franklin.	Columbus
2	Fulton	1850	Lucas, Henry, and Williams	Robert Fulton	Wauseon
20	Gallia	1803	Washington	Celtic for France	Gallipolis
40	Geauga	1805	Trumbull	Indian for "raccoon"	Chardon
76	Greene	1803	Hamilton and Ross.	Gen. Greene	Xenia
45	Guernsey	1810		Isle of Guernsey.	Cambridge
26	Hamilton	1790	Proclamation	Alexander Hamilton	Cincinnati
61	Hancock	1820		John Hancock	Findlay
80	Hardin	1820	Indian cession	Col. John Hardin	Kenton
44	Harrison	1813	Jefferson and Tuscarawas.	Wm. H. Harrison	Cadiz
34	Henry	1820	Indian cession	Patrick Henry	Napoleon
52	Highland	1805	Ross, Adams, and Clermont	Hills on border	Hillsboro
48	Hocking	1818	Ross, Athens, and Fairfield	Hock-hock-ing, meaning "a bottle"	Logan
67	Holmes	1824	Wayne, Coshocton, and Tuscarawas	Major Holmes	Millersburg
37	Huron	1809		Huron Indians	Norwalk
50	Jackson	1816		President Jackson	Jackson


OHIO
BY
COUNTIES.
M.-N. ENG.

14	Jefferson	1797	Proclamation	President Jefferson	Steubenville
33	Knox	1808	Fairfield	Gen. Henry Knox	Mt. Vernon
9	Lake	1840	Geauga & Cuyahoga	Lake Erie	Painsville
21	Lawrence	1816		Capt. Lawrence	Ironton
34	Licking	1808	Fairfield	Licking River	Newark
79	Logan	1817		Gen. Ben. Logan	Bellefontaine
7	Lorain	1822	Huron, Cuyahoga, and Medina	French, Lorraine	Elyria
3	Lucas	1835	Indian cession	Governor Lucas	Toledo
86	Madison	1810		President Madison	London
12	Mahoning	1846	Trumbull and Columbiana	Indian for "at the lick"	Youngstown
81	Marion	1824		Gen. Francis Marion	Marion
38	Medina	1812	Western Reserve	Arabian language	Mediana
19	Meigs	1819	Athens and Gallia	Gen. Meigs	Pomeroy
30	Mercer	1820	Indian cession	Gen. Hugh Mercer	Celina
56	Miami	1807	Montgomery	Indian for "mother"	Troy
16	Monroe	1813	Belmont, Washington, and Guernsey	James Monroe	Woodsfield
55	Montgomery	1803	Hamilton and Ross	Gen. Montgomery	Dayton
47	Morgan	1818		Gen. Daniel Morgan	Mc Connellsv'le
82	Morrow	1848	Richland, Knox, Marion, and Delaware	Gov. J. Morrow	Mt. Gilead
70	Muskingum	1804	Washington and Fairfield	Indi'n for "elk's eye"	Zanesville
46	Noble	1851	Guernsey, Monre, Morgan and Washington	James Noble	Caldwell
4	Ottawa	1840	Sand'ky, Erie, Lucas	Indian for "trader"	Port Clinton
32	Paulding	1820	Indian cession	John Paulding†	Paulding
71	Perry	1817	Fairfield, Washington, & Muskingum	Com. O. H. Perry	New Lexington
73	Pickaway	1810	Ross, Fairfield, and Franklin	Piqua Indians	Circleville
51	Pike	1815	Ross, Highland, Adams, Scioto, and Jackson	Gen. Pike	Waverly
41	Portage	1807	Trumbull	Indian, "portage" [path	Ravenna
28	Preble	1808	Montgom'y & Butler	Capt. Ed. Preble	Eaton
60	Putnam	1820	Indian cession	Gen. Putnam	Ottawa
64	Richland	1813		Its rich lands	Mansfield
74	Ross	1798	Proclamation	James Ross of Pa	Chillicothe
5	Sandusky	1820	Indian cession	Indian, "at the cold water"	Fremont
22	Scioto	1803		Indian. "soft water"	Portsmouth
36	Seneca	1820	Indian cession	Seneca Indians	Tiffin
57	Shelby	1819		Gov. Shelby of Ky	Sidney
42	Stark	1808		Gen. J. Stark	Canton
39	Summit	1840	Portage, Medina, and Stark	Highest point of Ohio canal	Akron
11	Trumbull	1800	Wayne & Jefferson	Gov. Trumbull of Ct.	Warren
68	Tuscarawas	1808	Muskingum	Indian, open mouth.	New Philadel'a
87	Union	1820	Indian cession, Logan, Delaware, Franklin, Madison	"Union of tracts"	Marysville
31	Van Wert	1820	Indian cession	Isaac VanWert†	VanWert
49	Vinton	1850	Gallia, Athens, Hocking, Ross, Jackson	S. F. Vinton	McArthur
54	Warren	1803	Hamilton	Gen. Joseph Warren.	Lebanon
17	Washington.	1788	Proclamation	George Washington.	Marietta
66	Wayne	1808		Athony Wayne	Wooster
1	Williams	1820	Indian cession	David Williams†	Bryan
35	Wood	1820	Indian cession	Col. Wood	Bowling Green
62	Wyandot	1845	Crawford, Marion, Hardin, Hancock	Wyandot Indians	Upper Sandusky

†Paulding, VanWert, and Williams captured André.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OHIO
BY
SENATE
DISTRICTS.
M.-N. ENG.

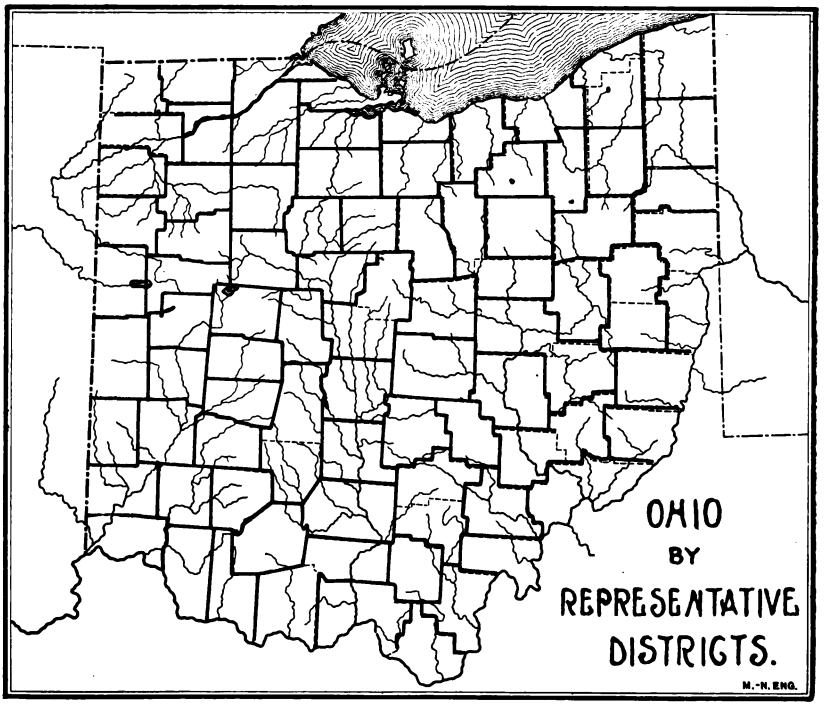
GENERAL ASSEMBLY—MEMBERS OF SENATE

Terms expire Dec. 31, 1903

Lieutenant-Governor and President of Senate..Charles L. Nippert

District	*Name*
1.	Peter Echert, R.
1.	Lewis M. Hosea, R.
1.	Nicholas Longworth, R.
2–4.	*W. F. Roudebush, D.
3.	Philo G. Burnham, R.
5–6.	Thomas M. Watts, R.
7.	*Samuel L. Patterson, R.
8.	*H. Perry Hanna, R.
9–14.	David H. Moore, R.
10.	William M. Thompson, D.
10.	Ballard B. Yates, D.
11.	Nelson A. Riggin, R.
12.	Orla E. Harrison, R.
13.	*Warren G. Harding, R.
15–16.	Norman F. Overturf, R.
17–28.	Newton Stilwell, D.
18–19.	*J. Edward Hurst, D.
20–22.	*Frank B. Archer, R.
20–22.	Charles C. Connell, R.
21.	*George W. Wilhelm, R.
23.	*Benjamin F. Wirt, R.
24–26.	William S. Harris, R.
25.	John Frank Herrick, D.
25.	John Krause, D.
25.	J. G. Pomerene, D.
25.	Millard Fillmore Warner, D.
27–29.	George H. Chamberlain, R.
30.	Charles A. Judson, R.
31.	*John C. Royer, D.
32.	Stephen D. Crites, D.
32.	William E. Decker, D.
33.	Calvin P. Godfrey, R.
34.	*George C. Dunham, R.

* Re-elected.


OHIO
BY
REPRESENTATIVE
DISTRICTS.
M.-N. ENG.

APPORTIONMENT OF MEMBERS OF THE GENERAL ASSEMBLY OF OHIO: 1901–1911

HOUSE OF REPRESENTATIVES

Population of state, 4,157,545; full ratio, 41,576; half ratio, 20,788; one and three-fourths ratio, 72,758; two full ratios, 83,-152: three full ratios, 124,728; four full ratios, 166,304.

Counties as numbered	Population of Counties	Session				
		Seventy-fifth*	Seventy-sixth	Seventy-seventh	Seventy-eighth	Seventy-ninth
3 Adams 51 Pike	26,328 18,172	1	1	1	1	1
59 Allen	47,976	1	1	1	1	1
65 Ashland 67 Holmes	21,184 19,511	1	1	1	1	1
10 Ashtabula	51,448	1	1	1	1	2
18 Athens	38,730	1	1	1	1	1
58 Auglaize	31,192	1	1	1	1	1
15 Belmont	60,875	1	1	2	2	1
24 Brown	28,237	1	1	1	1	1
27 Butler	56,870	1	1	1	1	2
78 Champaign	26,642	1	1	1	1	1
77 Clark	58,939	1	1	2	2	1
25 Clermont	31,610	1	1	1	1	1
53 Clinton	24,202	1	1	1	1	1
13 Columbiana	68,590	2	2	2	1	1
69 Coshocton	29,337	1	1	1	1	1
63 Crawford	33,915	1	1	1	1	1
8 Cuyahoga	439,120	10	10	11	11	10
29 Darke	42,532	1	1	1	1	1
33 Defiance	26,387	1	1	1	1	1
88 Delaware 82 Morrow	26,401 17,879	1	1	1	1	1
6 Erie	37,650	1	1	1	1	1
72 Fairfield	34,259	1	1	1	1	1
75 Fayette 86 Madison	21,725 20,590	1	1	1	1	1
85 Franklin	164,460	4	4	4	4	3
2 Fulton	22,801	1	1	1	1	1
20 Gallia	27,918	1	1	1	1	1
76 Greene	31,613	1	1	1	1	1
45 Guernsey	34,425	1	1	1	1	1
26 Hamilton	409,479	10	10	10	10	9
61 Hancock	41,993	1	1	1	1	1
80 Hardin	31,187	1	1	1	1	1
44 Harrison 43 Carroll	20,486 16,811	1	1	1	1	1
34 Henry	27,282	1	1	1	1	1
52 Highland	30,982	1	1	1	1	1

*Expires Dec. 31, 1903.

Counties as numbered	Population of Counties	Session				
		Seventy-fifth	Seventy-sixth	Seventy-seventh	Seventy-eighth	Seventh-ninth
48 Hocking }	24,393	1	1	1	1	1
49 Vinton }	15,330					
37 Huron	32,330	1	1	1	1	1
50 Jackson	34,248	1	1	1	1	1
14 Jefferson	44,357	1	1	1	1	1
88 Knox	27,768	1	1	1	1	1
9 Lake }	21,680	1	1	1	1	1
40 Geauga }	14,744					
21 Lawrence	39,534	1	1	1	1	1
84 Licking	47,070	1	1	1	1	1
79 Logan	30,420	1	1	1	1	1
7 Lorain	54,857	1	1	1	1	2
3 Lucas	153,559	4	4	4	3	3
12 Mahoning	70,134	2	2	2	1	1
81 Marion	28,678	1	1	1	1	1
38 Medina	21,958	1	1	1	1	1
19 Meigs	28,620	1	1	1	1	1
30 Mercer	28,021	1	1	1	1	1
56 Miami	43,105	1	1	1	1	1
16 Monroe	27,031	1	1	1	1	1
55 Montgomery	130,146	3	3	3	3	3
47 Morgan }	17,905	1	1	1	1	1
46 Noble }	19,466					
70 Muskingum	53,185	1	1	1	1	2
4 Ottawa	22,213	1	1	1	1	1
32 Paulding	27,528	1	1	1	1	1
71 Perry	31,841	1	1	1	1	1
73 Pickaway	27,016	1	1	1	1	1
41 Portage	29,246	1	1	1	1	1
28 Preble	23,713	1	1	1	1	1
60 Putnam	32,525	1	1	1	1	1
64 Richland	44,289	1	1	1	1	1
74 Ross	40,940	1	1	1	1	1
5 Sandusky	34,311	1	1	1	1	1
22 Scioto	40,981	1	1	1	1	1
36 Seneca	41,163	1	1	1	1	1
57 Shelby	24,625	1	1	1	1	1
42 Stark	94,747	2	2	2	2	3
39 Summit	71,715	2	2	2	1	1
11 Trumbull	46,591	1	1	1	1	1
68 Tuscarawas	53,751	1	1	1	1	2
87 Union	22,342	1	1	1	1	1
31 Van Wert	30,394	1	1	1	1	1
54 Warren	25,584	1	1	1	1	1
17 Washington	48,245	1	1	1	1	1
66 Wayne	37,870	1	1	1	1	1
1 Williams	24,953	1	1	1	1	1
35 Wood	51,555	1	1	1	1	2
62 Wyandot	21,125	1	1	1	1	1
Total No. representatives in each session		110	110	113	109	111

MEMBERS OF THE HOUSE

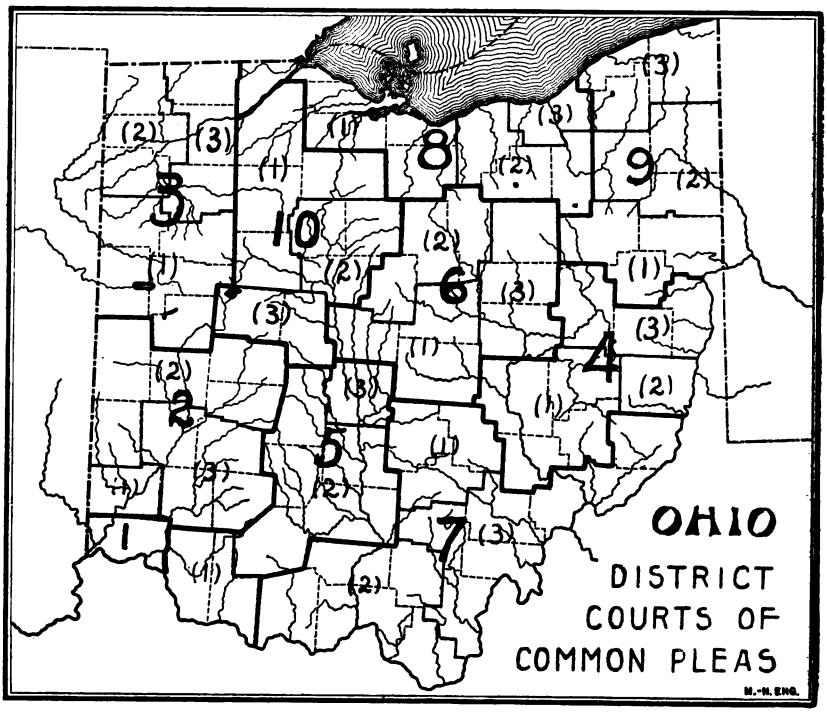
Speaker.....W. S. McKINNON

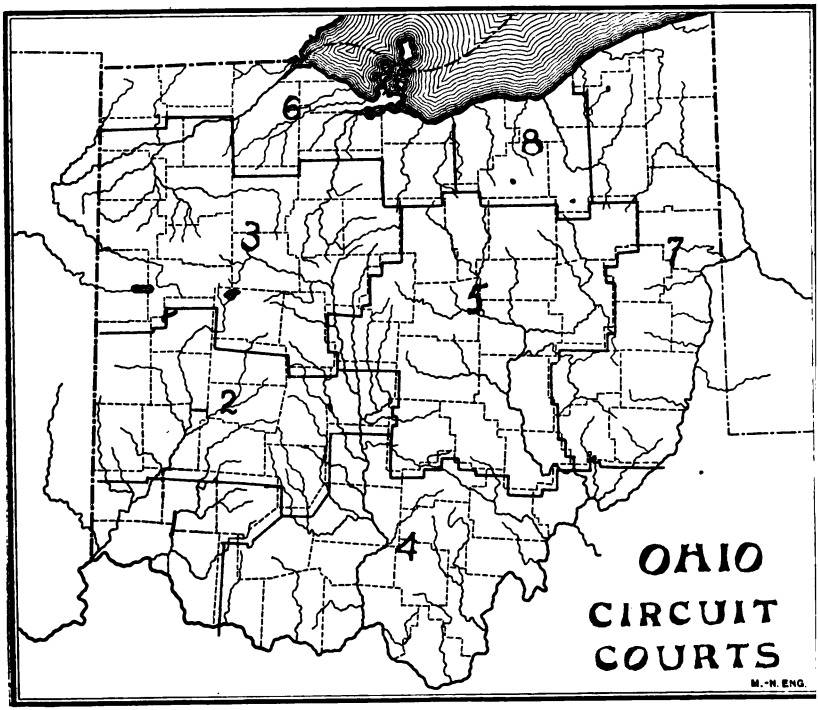
COUNTIES	NAMES
Adams-Pike	J. W. Guthrie
Allen	John W. Manges
Ashland-Holmes	*David Collier
Ashtabula	*W. S. McKinnon
Athens	*Aaron E. Price
Auglaize	B. A. Fledderjohann
Belmont	Paul B. Worthington
Brown	*J. D. Garrison
Butler	Isaac E. Huffman
Carroll-Harrison	James Hartley Beal
Champaign	*Edwin Hagenbuch
Clark	Oran F. Hypes
Clermont	Charles A. Brannock
Clinton	*Ross E. Holaday
Columbiana	*Samuel Buell
	D. W. Crist
Coshocton	J. Ab. Finley
Crawford	*D. O. Castle
Cuyahoga	Thomas S. Dunlap
	Charles E. Bell
	Ludd R. Dunham
	John J. Kinney
	Otto Jansen
	Charles L. Selzer
	A. J. Howey
	Charles W. Stage
	M. E. Meisel
	Thomas Coughlin
Darke	*Clem L. Brumbaugh
Defiance	*John M. Ainsworth
Delaware-Morrow	Arthur H. Jones
Erie	W. E. Guerin, jr.
Fairfield	*Robert H. Sharp
Fayette-Madison	J. Madison Willis
Franklin	Edward J. Bracken
	John Felix McNamee
	James A. Cannon
	John B. Denune
Fulton	*Charles L. Allen
Gallia	Hollis C. Johnston
Geauga-Lake	Homer N. Kimball
Greene	*Horace Ankeney
Guernsey	*William L. Simpson
Hamilton	Herman H. Berghegger
	Charles M. Myers
	Dudley P. Wayne
	Dwight R. Herrick
	Frank Cook
	Charles F. Williams
	George W. Hays
	Max Silberberg
	William Walker Smith
	Demas Perlee Rowland

*Re-elected.

COUNTIES	NAMES
Hancock	*Ralph D. Cole
Hardin	*Frank B. Willis
Henry	*Theodore M. Gehrett
Highland	*N. P. Clyburn
Hocking-Vinton	*Charles S. Rannels
Huron	*George T. Thomas
Jackson	Gomer C. Evans
Jefferson	*M. N. Duval
Knox	*Patrick A. Berry
Lawrence	*Daniel B. Mauck
Licking	*William Bell, jr.
Logan	*Luther H. Pool
Lorain	*Andrew G. Comings
Lucas	Ulysses G. Denman John C. Jones *George Demuth Harold W. Fraser
Mahoning	William F. Maag W. J. Williams
Marion	L. B. McNeal
Medina	Bert Fisher
Meigs	John H. Lochary
Mercer	*Samuel V. Brown
Miami	W. I. Tenney
Monroe	J. G. Devaul
Montgomery	William Warner Chapman Allen C. McDonald *John C. Myers
Morgan-Noble	L. F. Cain
Muskingum	James M. Carr
Ottawa	Charles I. York
Paulding	*John D. Brown
Perry	Tom D. Binckley
Pickaway	*Brazillai Adkins
Portage	*William H. Crafts
Preble	M. K. Hensel
Putnam	O. J. O'Donnell
Richland	W. H. Earhart
Ross	James C. Foster
Sandusky	Edward R. Tyler
Scioto	Chandler J. Moulton
Seneca	Roscoe L. Carle
Shelby	*Wm. E. Partington
Stark	*R. A. Pollock *Clark W. Metzger
Summit	*Charles F. Seese William Buchtel
Trumbull	*Thomas Kinsman
Tuscarawas	W. A. Gold
Union	*Francis T. Arthur
Van Wert	*Sumner E. Walters
Warren	William Z. Roll
Washington	*C. C. Middleswart
Wayne	*Urias F. Wells
Williams	Orrin H. Nihart
Wood	*Clyde R. Painter
Wyandot	*Willam C. Gear

*Re-elected.


OHIO
DISTRICT
COURTS OF
COMMON PLEAS
M.-H. ENG.


6
8
3
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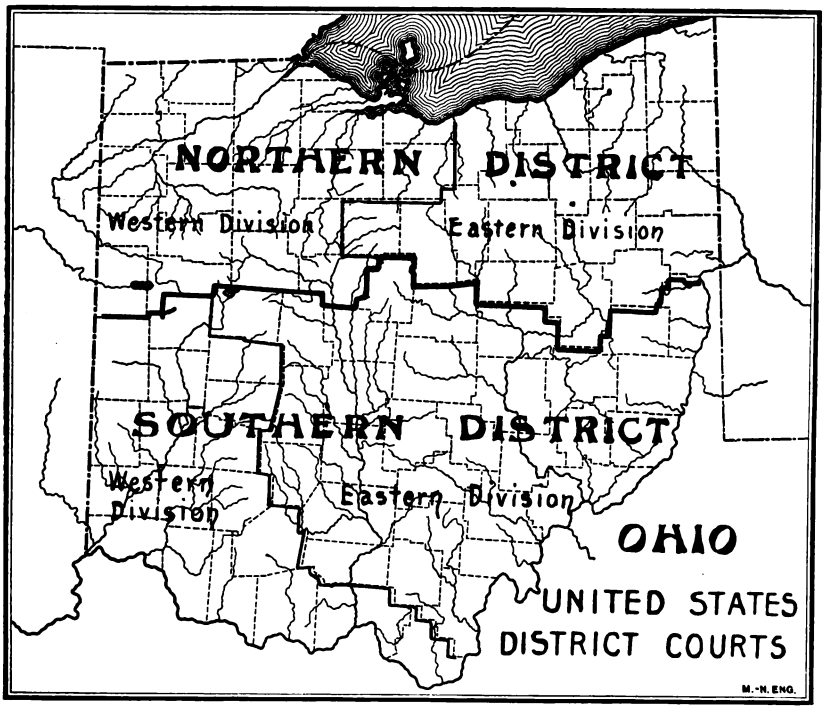
OHIO
CIRCUIT
COURTS
M.-N. ENG.


NORTHERN DISTRICT
Western Division
Eastern Division
SOUTHERN DISTRICT
Western Division
Eastern Division
OHIO
UNITED STATES
DISTRICT COURTS
M.-N. ENG.

UNITED STATES CIRCUIT AND DISTRICT COURTS FOR OHIO

The sixth circuit consists of the following states: Kentucky, Michigan, Ohio and Tennessee.

JUDGES

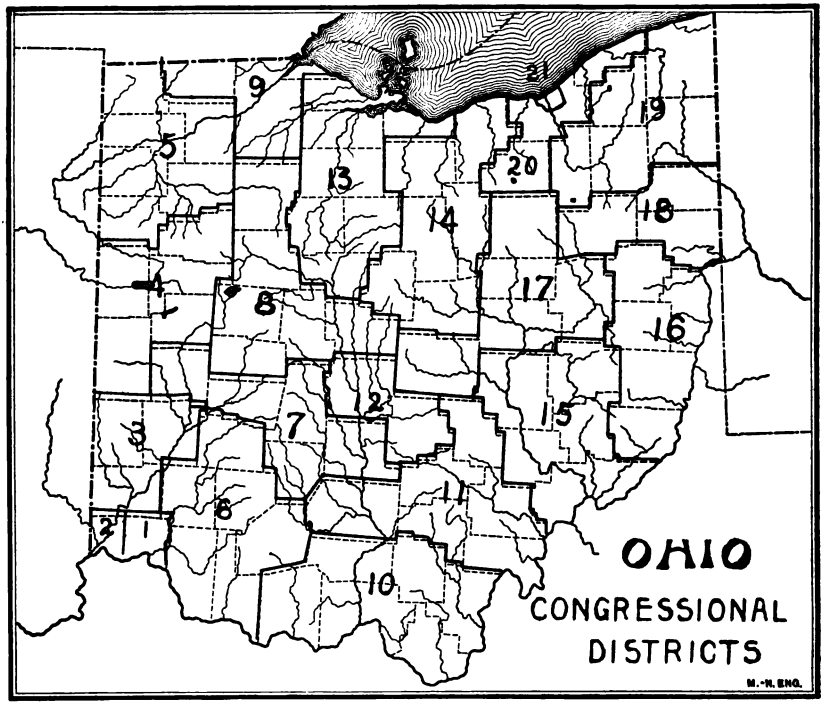
JOHN M. HARLAN.....Associate Justice
HORACE H. LUPTON.....Circuit Judge for Sixth Circuit
WILLIAM R. DAY..... " " " " "
HENRY F. SEVERENS..... " " " " "
AUGUSTUS J. RICKS.....District Judge for Northern District
FRANCIS J. WING..... " " " " "
A. C. THOMPSON..... " " " Southern "

TERMS OF COURT

Circuit and District

District	*Division*	*Where held*	*Term begins*
Northern	Eastern	Cleveland	First Tuesday in February, April and Oct.
Northern	Western	Toledo	First Tuesday in June and December.
Southern	Eastern	Columbus	First Tuesday in June and December.
Southern	Western	Cincinnati	First Tuesday in February, April and Oct.

The United States circuit court of appeals for the sixth circuit is held in Cincinnati. This court holds one regular session yearly beginning on the first Tuesday after the first Monday in October. (See page 87.)


OHIO
CONGRESSIONAL
DISTRICTS
M.-N. ENG.

MEMBERS OF FIFTY-SEVENTH CONGRESS FROM OHIO

Speaker.....David B. Henderson, Iowa

Districts	*Representatives*†
1.	William B. Shattuc, R.
2.	*Jacob H. Bromwell, R.
3.	Robert M. Nevin, R.
4.	*Robert B. Gordon, D.
5.	John S. Snook, D.
6.	Charles Q. Hildebrant, R.
7.	Thomas B. Kyle, R.
8.	William R. Warnock, R.
9.	*James H. Southard, R.
10.	*Stephen Morgan, R.
11.	*Charles H. Grosvenor, R.
12.	Emmet Tompkins, R.
13.	*James A. Norton, D.
14.	William W. Skiles, R.
15.	*Henry Clay Van Voorhis, R.
16.	*Joseph J. Gill, R.
17.	John W. Cassingham, D.
18.	*Robert W. Tayler, R.
19.	*Charles Dick, R.
20.	Jacob A. Beidler, R.
21.	*Theodore E. Burton, R.

The fifty-seventh congress contains 357 members and the fifty-eight will contain 386.

UNITED STATES SENATORS

President *pro tem* of the senate, William C. Frye, Maine

	Term
Joseph B. Foraker, R.	1897–1903
Marcus A. Hanna, R.	1899–1905

* Re-elected. † Term expires March 4, 1903.

PRESIDENTIAL VOTE, FROM 1789 TO DATE.

INAUGURATED.	CANDIDATES.	PARTY.	POPULAR VOTE.	ELECTORS.
1789	George Washington	.....	Elec. chosen by Legislature.	Unan.
1797	John Adams	Fed...	" " "	71
	Thomas Jefferson	Dem..	" " "	69
1801	Thomas Jefferson	Dem..	Election went to H. of R.,	73
	Aaron Burr	Dem..	and Jefferson was elected	73
	John Adams	Fed...	on the 36th ballot.	65
1805	Thomas Jefferson	Dem..	Elec. chosen by Legislature.	148
	C. C. Pinckney	Fed...	" " "	28
1809	James Madison	Dem..	" " "	122
	C. C. Pinckney	Fed...	" " "	47
1813	James Madison	Dem..	" " "	128
	De Witt Clinton	Fed...	" " "	89
1817	James Monroe	Dem..	" " "	183
	Rufus King	Fed...	" " "	34
1821	James Monroe	Dem..	But 1 electoral vote in op...	
1825	J. Q. Adams	Fed...	105,321. Elec. by H. of R.	84
	Andrew Jackson	Dem..	155,872	99
	W. H. Crawford	Dem..	44,282	41
	Henry Clay	Whig .	46,587	37
1829	Andrew Jackson	Dem..	647,231	178
	J. Q. Adams	Fed...	509,097	83
1833	Andrew Jackson	Dem..	687,502	219
	Henry Clay	Whig .	530,189	49
	John Floyd	Whig .	Not known	11
	William West	Whig .	"	7
1837	Martin Van Buren	Dem..	761,549	170
	William H. Harrison	Whig .	736,656	121
1841	William H. Harrison	Whig .	1,275,011	234
	Martin Van Buren	Dem..	1,135,761	60
1845	James K. Polk	Dem..	1,337,243	170
	Henry Clay	Whig .	1,361,362	105
1849	Zachary Taylor	Whig .	1,360,099	163
	Lewis Cass	Dem..	1,220,544	127
	Martin Van Buren	Dem..	291,263	
1853	Franklin Pierce	Dem..	1,601,474	254
	Winfield Scott and others	Whig .	1,542,403	42
1857	James Buchanan	Dem..	1,838,169	174
	John C. Fremont and others	Rep..	2,215,798	122
1861	Abraham Lincoln	Rep..	1,866,352	180
	J. C. Breckenridge and others	Dem..	2,810,501	123
1865	Abraham Lincoln	Rep..	2,216,067	213
	Geo. B. McClellan	Dem..	1,808,725	21
1869	Ulysses S. Grant	Rep..	3,015,071	214
	Horatio Seymour	Dem..	2,709,613	80
1873	Ulysses S. Grant	Rep..	3,597,070	300
	Horace Greeley	L. & D.	2,834,079	66

INAUGURATED.	CANDIDATES.	PARTY.	POPULAR VOTE.	ELECTORS.
1877	Rutherford B. Hayes	Rep.	4,049,096	185
	Samuel J. Tilden	Dem.	4,315,801	184
	Peter Cooper	G'b'k.	81,907	
1881	James A. Garfield	Rep.	4,450,921	214
	Winfield S. Hancock	Dem.	4,447,888	155*
	J. B. Weaver	G'b'k.	307,740	
1885	Grover Cleveland	Dem.	5,874,118	219
	James G. Blaine	Rep.	4,849,850	182
	Benjamin F. Butler	G'b'k.	134,948	
	John P. St. John	Pro.	149,226	
1889	Benjamin Harrison	Rep.	5,439,853	233
	Grover Cleveland	Dem.	5,540,329	168
	Clinton B. Fisk	Pro.	249,506	
	Scattering		151,344	
1893	Grover Cleveland	Dem.	5,556,562	277
	Benjamin Harrison	Rep.	5,162,874	145
	James B. Weaver	Peop.	1,055,424	22
	John Bidwell	Pro.	264,066	
1897	William McKinley	Rep.	7,121,342	271
	William J. Bryan	Dem.	6,502,600	179
	John M. Palmer	N. Dem	134,781	
	Joshua Levering	Pro.	123,428	
	Charles H. Matchett	Soc. L.	35,306	
	Charles E. Bentley	Nat.	13,585	
1901	William McKinley	Rep.	7,208,224	292
	William J. Bryan	Dem.	6,358,789	155
	John G. Woolley	Pro.	208,833	
	Eugene V. Debbs	Soc. D.	86,686	
	Wharton Barker	M. P.	50,373	
	Jas. F. Malloney	Soc. L.	39,759	
	Seth H. Ellis	U. R.	5,698	
	J. F. R. Leonard	U. C.	1,059	

* Including Georgia's votes, not counted because not cast at the time prescribed.

NOTE.—The one vote in 1821 was cast for John Quincy Adams by an elector from New Hampshire.

PRESIDENT ROOSEVELT'S CABINET

(President McKinley died Sept. 14, 1901.)

Secretary of State.....John Hay, Illinois.
Secretary of Treasury.....Leslie M. Shaw, Iowa.
Secretary of War.....Elihu Root, New York
Secretary of Navy.....W. H. Moody, Mass.
Secretary of Interior....Ethan Allen Hitchcock, Mo.
Postmaster General.....Henry C. Payne, Wis.
Attorney General.....Philander C. Knox, Pa.
Secretary of Agriculture.James Wilson, Iowa.

CHIEF JUSTICES OF THE SUPREME COURT

1. John Jay, of New York.....1789–1795
2. John Rutledge, of South Carolina..... 1795
3. Oliver Ellsworth, of Connecticut..... ..1796–1800
4. John Marshall, of Virginia.....1800–1835
5. Roger B. Taney, of Maryland.....1836–1864
6. Salmon P. Chase, of Ohio.....1864–1873
7. Morrison R. Waite, of Ohio.....1874–1888
8. Melville W. Fuller, of Illinois.....1888–

UNITED STATES SUPREME COURT (See p. —.)

CHIEF JUSTICE

Melville W. Fuller.....appointed 1888

ASSOCIATE JUSTICES

John M. Harlan, of Kentuckey.....appointed 1877
Horace Gray, of Massachusetts..... " 1881
David J. Brewer, of Kansas..... " 1889
Henry B. Brown, of Michigan..... " 1890
George Shiras, jr., of Pennsylvania..... " 1892
Edward Douglas White, of Louisiana.. " 1894
Rufus W. Peckham, of New York..... " 1895
Joseph McKenna, of California..... " 1897

Philander C. Knox, Attorney-General.....1901
John K. Richards, Solicitor-General..... 1897
James H. McKenney, Clerk of Supreme Court...1880
J. M. Wright, Marshal.....1888
J. C. Bancroft Davis, Reporter.....1883

DECLARATION OF INDEPENDENCE

In Congress, July 4, 1776

THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES OF AMERICA

When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government; laying its foundation on such principles, and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute depotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these

colonies, and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws, the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature, a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining, in the meantime, exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices; and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of and superior to the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us, in many cases, of the benefits of trial by jury:

For transporting us beyond seas to be tried for pretended offences:

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies:

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments:

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation and tyranny, already begun, with circumstances of cruelty and perfidy, scarcely parallelled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms; our repeated petitions have been answered only by repeated injury. A prince whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace friends.

We, therefore, the representatives of the United States of America, in general congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by authority of the good people of these colonies, solemnly publish and declare, that these United Colonies are, and of right ought to be, *free and independent states;* that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved; and that as *free and independent states*, they have full power to levy war, conclude peace, contract aliances, establish commerce, and to do all other acts and things which *independent states* may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

JOHN HANCOCK, and 54 other signers.

ARTICLES OF CONFEDERATION AND PERPETUAL UNION BETWEEN THE STATES (1776–78)

ARTICLE I.—The style of this confederacy shall be, "The United States of America" (1).*

ART. II.—Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States in congress assembled (93).

ART. III.—The said states hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever (1).

ART. IV.—The better to secure and perpetuate mutual friendship and intercourse among the people of the different states in this union, the free inhabitants of each of these states—paupers, vagabonds, and fugitives from justice, excepted—shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and regress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions as the inhabitants thereof respectively; provided that such restriction shall not extend so far as to prevent the removal of property, imported into any state, to any other state of which the owner is an inhabitant; provided also that no imposition, duties, or restriction shall be laid by any state on the property of the United States, or either of them (73, 52).

If any person be guilty of or charged with treason, felony, or other high misdemeanor, in any state, shall flee from justice, and be found in any of the United States, he shall, upon demand of

* Figures at the end of the paragraphs refer to corresponding paragraphs of the national constitution.

the governor or executive power of the state from which he fled, be delivered up and removed to the state having jurisdiction of his offence (74).

Full faith and credit shall be given in each of these states to the records, acts, and judicial proceedings of the courts and magistrates of every other state (72).

ART. V.—For the more convenient management of the general interest of the United States, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in congress on the 1st Monday in November in every year, with a power reserved to each state to recall its delegates, or any of them, at any time within the year, and to send others in their stead for the remainder of the year (2, 16).

No state shall be represented in congress by less than 2 nor by more than 7 members; and no person shall be capable of being a delegate for more than 3 years in any term of 6 years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit, receives any salary, fees, or emolument of any kind (3–20).

Each state shall maintain its own delegates in a meeting of the states, and while they act as members of the committee of the states (21).

In determining questions in the United States in congress assembled, each state shall have one vote (17).

Freedom of speech and debate in congress shall not be impeached or questioned in any court, or place out of congress; and the members of congress shall be protected in their persons from arrests and imprisonments during the time of their going to and from, and attendance on, congress, except for treason, felony, or breach of the peace (21).

ART. VI.—No state, without the consent of the United States in congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty with, any king, prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state;

nor shall the United States in congress assembled, or any of them, grant any title of nobility (51, 50, 28).

No two or more states shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States in congress assembled; specifying accurately the purposes for which the same is to be entered into, and how long it shall continue (51).

No state shall lay any imposts or duties which may interfere with any stipulations in treaties entered into by the United States in congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by congress to the courts of France and Spain (52).

No vessels-of-war shall be kept up in time of peace by any state, except such number only as shall be deemed necessary, by the United States in congress assembled, for the defence of such state or its trade; nor shall any body of forces be kept up by any state in time of peace, except such number only as, in the judgment of the United States in congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such state; but every state shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutered, and shall provide and constantly have ready for use in public stores a due number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage (52, 41).

No state shall engage in any war without the consent of the United States in congress assembled, unless such state be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay till the United States in congress assembled can be consulted; nor shall any state grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in congress assembled, unless such state be infested by pirates; in which case vessels-of-war may be fitted out for that occasion, and kept so long as the danger shall

continue, or until the United States in congress assembled shall determine otherwise (52, 51).

ART. VII—When land-forces are raised by any state for the common defence, all officers of or under the rank of colonel shall be appointed by the legislature of each state respectively by whom such forces shall be raised, or in such manner as such state shall direct; and all vacancies shall be filled up by the state which first made the appointment (41).

ART. VIII.—All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states in proportion to the value of all lands within each state, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States in congress assembled shall from time to time direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states within the time agreed upon by the United States in congress assembled (26).

ART. IX.—The United States in congress assembled shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the 6th Article; of sending and receiving ambassadors, entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever; of establishing rules for deciding in all cases what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated; of granting letters of marque and reprisal in times of peace, appointing courts for the trial of piracies and felonies committed on the high seas, and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of congress shall be appointed a judge of any of the said courts (36, 64, 62, 36, 35, 22).

The United States in congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more states concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: Whenever the legislative or executive authority or lawful agent of any state, in controversy with another, shall present a petition to congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of congress to the legislative or executive authority of the other state in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question: but, if they can not agree, congress shall name 3 persons out of each of the United States; and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to 13: and from that number not less than 7 nor more than 9 names, as congress shall direct, shall in the presence of congress be drawn out by lot; and the persons whose names shall be so drawn, or any 5 of them, shall be commissioners or judges to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons which congress shall judge sufficient, or, being present, shall refuse to strike, the congress shall proceed to nominate 3 persons out of each state, and the secretary of congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court, to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive,—the judgment or sentence and other proceedings being in either case transmitted to congress, and lodged among the acts of congress for the security of the parties concerned: provided that every commissioner, before he sits in judgment, shall take an oath, to

be administered by one of the judges of the supreme or superior court of the state where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward": provided also that no state shall be deprived of territory for the benefit of the United States (67).

All controversies concerning the private right of soil claimed under different grants of two or more states, whose jurisdictions as they may respect such lands, and the states which passed such grants, are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different states (67).

The United States in congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states; fixing the standard of weights and measures throughout the United States; regulating the trade and managing all affairs with the Indians, not members of any of the States, provided that the legislative right of any State within its own limits be not infringed or violated; establishing and regulating post-offices from one state to another throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office; appointing all officers of the land-forces in the service of the United States, excepting regimental officers; appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States; making rules for the government and regulation of the said land and naval forces, and directing their operations (30, 28, 32, 37, 62, 39).

The United States in congress assembled shall have authority to appoint a committee, to sit in the recess of congress, to be denominated "A committee of the states", and to consist of 1 delegate from each state; and to appoint such other committees and civil officers as may be necessary for managing the general

affairs of the United States under their direction; to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than 1 year in any term of 3 years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses; to borrow money, or emit bills on the credit of the United States, transmitting every half-year to the respective states an account of the sums of money so borrowed or emitted; to build and equip a navy; to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state; which requisition shall be binding; and thereupon the legislature of each state shall appoint the regimental officers, raise the men, and clothe, arm, and equip them in a soldier-like manner, at the expense of the United States; and the officers and men so clothed, armed, and equipped shall march to the place appointed and within the time agreed on by the United States in congress assembled: But if the United States in congress assembled shall, on consideration of circumstances, judge proper that any state should not raise men, or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number cannot be safely spared out of the same; in which case they shall raise, officer, clothe, arm, and equip as many of such extra number as they judge can be safely spared; and the officers and men so clothed, armed, and equipped shall march to the place appointed, and within the time agreed on by the United States in congress assembled (53, 64, 26, 27, 38, 37, 41).

The United States in congress assembled shall never engage in a war; nor grant letters of marque and reprisal in time of peace; nor enter into any treaties or alliances; nor coin money, nor regulate the value thereof; nor ascertain the sums and expenses necessary for the defence and welfare of the United States, or any of them; nor emit bills, nor borrow money on the credit of the United States; nor appropriate money; nor agree upon the number of

vessels-of-war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander-in-chief of the army or navy, unless 9 states assent to the same: nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States in congress assembled (83, 36, 62, 30, 26, 27, 38, 37, 61, 43, 17).

The congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of 6 months, and shall publish the journal of their proceedings monthly, except such parts thereof, relating to treaties, alliances, or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each state on any question shall be entered on the journal, when it is desired by any delegate; and the delegates of a state, or any of them, at his or their request, shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several states (20, 19).

ART. X.—The committee of the states, or any 9 of them, shall be authorized to execute, in the recess of congress, such of the powers of congress as the United States in congress assembled, by the consent of 9 states, shall from time to time think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of 9 states in the congress of the United States assembled is requisite (53–64, 83).

ART. XI.—Canada, acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to all the advantages of, this union: but no other colony shall be admitted into the same, unless such admission be agreed to by 9 states (76).

ART. XII.—All bills of credit emitted, moneys borrowed, and debts contracted, by or under the authority of congress before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said

United States and the public faith are hereby solemnly pledged (80).

ART. XIII.—Every state shall abide by the determinations of the United States in congress assembled, on all questions which, by this confederation, are submitted to them. And the articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a congress of the United States, and be afterwards confirmed by the legislatures of every state (79).

And whereas it hath pleased the great Governor of the world to incline the hearts of the legislatures we respectively represent in congress to approve of, and to authorize us to ratify, the said articles of confederation and perpetual union, KNOW YE, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained: And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in congress assembled on all questions which by the said confederation are submitted to them; and that the articles thereof shall be inviolably observed by the states we respectively represent, and that the union shall be perpetual. In witness whereof, we have hereunto set our hands in congress. Done at Philadelphia, in the state of Pennsylvania, the 9th day of July, in the year of our Lord 1778, and in the 3d year of the Independence of America (83).

ORDINANCE OF 1787

BE IT ORDAINED by the United States in congress assembled (77),* That the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may in the opinion of congress, make it expedient.

Be it ordained by the authority aforesaid, That the estates, both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among their children, and the descendants of a deceased child in equal parts; the descendants of a deceased child or grandchild, to take the share of their deceased parent in equal parts among them: And where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate, shall have in equal parts among them, their deceased parents' share; and there shall in no case be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one-third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district.—And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her, in whom the estate may be (being of full age) and attested by 3 witnesses;—and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered by the person being of full age, in whom the estate may be, and attested by 2 witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof

* The reference numerals refer to corresponding provisions in the national constitution.

duly proved, and be recorded within 1 year after proper magistrates, courts, and registers shall be appointed for that purpose; and personal property may be transferred by delivery; saving, however, to the French and Canadian inabitants, and other settlers of the Kaskaskies, Saint Vincent's, and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

Be it ordained by the authority aforesaid, That there shall be appointed from time to time, by congress, a governor, whose commission shall continue in force for the term of 3 years, unless sooner revoked by congress, he shall reside in the district, and have a freehold estate therein, in 1,000 acres of land while in the exercise of his office (53).

There shall be appointed from time to time, by congress, a secretary, whose commission shall continue in force for 4 years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in 500 acres of land, while in the exercise of his office; it shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department; and transmit authentic copies of such acts and proceedings, every 6 months, to the secretary of congress: There shall also be appointed a court to consist of 3 judges, any 2 of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate in 500 acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behavior (66).

The governor and judges, or a majority of them, shall adopt and publish in the district, such laws of the original states, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to congress, from time to time; which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

The governor for the time being, shall be commander-in-chief of the militia, appoint and commission all officers in the same,

below the rank of general officers; all general officers shall be appointed and commissioned by congress (41).

Previous to the organization of the general assembly, the governor shall appoint such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same: After the general assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof—and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

So soon as there shall be 5,000 free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly; provided that for every 500 free male inhabitants, there shall be 1 representative, and so on progressively with the number of free male inhabitants shall the right of representation increase, until the number of representatives shall amount to 25; after which the number and proportion of representatives shall be regulated by the legislature: provided that no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States 3 years, and be a resident in the district, or unless he shall have resided in the district 3 years; and in either case shall likewise hold in his own right, in fee simple, 200 acres of land within the same; provided also, that a freehold in 50 acres of land in the district, having been a citizen of one of the states, and being resident in the district, or the like freehold and 2 years residence in the district shall be necessary to qualify a man as an elector of a representative (4).

The representatives thus elected, shall serve for the term of 2 years (3); and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township, for which he was a member, to elect another in his stead, to serve for the residue of the term.

The general assembly, or legislature, shall consist of the governor, legislative council, and a house of representatives (2). The legislative council shall consist of 5 members, to continue in office 5 years, unless sooner removed by congress; any 3 of whom to be a quorum: and the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and, when met, they shall nominate 10 persons, residents in the district, and each possessed of a freehold in 500 acres of land, and return their names to congress; 5 of whom congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate 2 persons, qualified as aforesaid, for each vacancy, and return their names to congress; one of whom congress shall appoint and commission for the residue of the term. And every 5 years, 4 months at least before the expiration of the time of service of the members of council, the said house shall nominate 10 persons, qualified as aforesaid, and return their names to congress; 5 of whom congress shall appoint and commission to serve as members of the council 5 years, unless sooner removed (8). And the governor, legislative council, and house of representatives, shall have authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill or legislative act whatever, shall be of any force without his assent (24). The governor shall have power to convene, prorogue and dissolve the general assembly, when in his opinion it shall be expedient (64).

The governor, judges, legislative council, secretary, and such other officers as congress shall appoint in the district, shall take

an oath or affirmation of fidelity, and of office; the governor before the president of congress, and all other officers before the governor (82). As soon as a legislature shall be formed in the district, the council and house assembled, in one room, shall have authority, by joint ballot, to elect a delegate to congress, who shall have a seat in congress, with a right of debating, but not of voting during this temporary government.

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the said territory: to provide also for the establishment of states, and permanent government therein, and for their admission to a share in the federal councils on an equal footing with the original states, at as early periods as may be consistent with the general interest (76, 77):

It is hereby ordained and declared, by the authority aforesaid, That the following articles shall be considered as articles of compact between the original states, and the people and states in the said territory, and forever remain unalterable, unless by common consent, to wit (1):

1. No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory (84).

2. The inhabitants of the said territory, shall always be entitled to the benefits of the writ of habeas corpus (45), and of the trial by jury (89, 90); of a proportionate representation of the people in the legislature (5), and of judicial proceedings according to the course of the common law (90). All persons shall be bailable (91), unless for capital offences, where the proof shall be evident, or the presumption great. All fines shall be moderate (91); and no cruel or unusual punishments shall be inflicted (91). No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land (89), and should the public exigencies make it necessary, for the common preservation, to take any person's property (88), or to demand his particular services, full compensation shall be made for the same. And in the just preservation of rights and property, it is understood and

declared, that no law ought ever to be made, or have force in the said territory, that shall in any manner whatever interfere with, or affect private contracts or engagements, bona fide, and without fraud previously formed (51).

3. Religion, morality and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorized by congress; but laws founded in justice and humanity shall from time to time be made, for preventing wrongs being done to them, and for preserving peace and friendship with them (28).

4. The said territory, and the states which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the articles of confederation, and to such alterations therein, as shall be constitutionally made; and to all the acts and ordinances of the United States in congress assembled, conformable thereto. The inhabitants and settlers in the said territory, shall be subject to pay a part of the federal debts, contracted or to be contracted, and a proportional part of the expenses of government, to be apportioned on them by congress, according to the same common rule and measure, by which apportionments thereof shall be made on the other states; and the taxes for paying their proportion, shall be laid and levied by the authority and direction of the legislatures of the district or districts or new states, as in the original states, within the time agreed upon by the United States in congress assembled. The legislatures of those districts or new states, shall never interfere with the primary disposal of the soil by the United States in congress assembled, nor with any regulations congress may find necessary for securing the title in such soil to the bona fide purcasers (77). No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to

the inhabitants of the said territory, as to the citizens of the United States, and those of any other states that may be admitted into the confederacy, without any tax, impost, or duty therefor (48).

5. There shall be formed in the said territory, not less than 3, nor more than 5 states; and the boundaries of the states, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit: The western state in the said territory, shall be bounded by the Mississippi, the Ohio and Wabash rivers; a direct line drawn from the Wabash and Post Vincents due north to the territorial line between the United States and Canada; and by the said territorial line to the lake of the Woods and Mississippi. The middle state shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio; by the Ohio, by a direct line drawn due north from the mouth of the Great Miami, to the said territorial line, and by the said territorial line. The eastern state shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: provided, however, and it is further understood and declared, that the boundaries of these 3 states, shall be subject so far to be altered, that if congress shall hereafter find it expedient, they shall have authority to form 1 or 2 states in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of lake Michigan. And whenever any of the said states, shall have 60,000 free inhabitants therein, such state shall be admitted, by its delegates, into the congress of the United States, on an equal footing with the original states, in all respects whatever; and shall be at liberty to form a permanent constitution and state government (76): provided the constitution and government so to be formed, shall be republican (78), and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the state than 60,000.

6. There shall be neither slavery nor involuntary servitude in the said territory (98), otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: pro-

vided always, that any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid (75).

Be it ordained by the authority aforesaid, That the resolutions of the 23d of April, 1784, relative to the subject of this ordinance, be, and the same are hereby repealed and declared null and void.

THE CONSTITUTION OF THE UNITED STATES OF AMERICA

NOTE.—The paragraphs are marked by the numbers by which they are referred to throughout the book. The numbers in parentheses refer to corresponding paragraphs in the constitution of the state of New York or in this constitution.

PREAMBLE

1 (111) We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America.

ARTICLE I—Legislative

SECTION 1—CONGRESS

2 (130) 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

SECTION 2.—HOUSE OF REPRESENTATIVES

3 (136 to 135) 1. *Election*—The house of representatives shall be composed of members chosen every 2d year by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

4 (147) (148) (10) 2. *Qualifications*—No person shall be a representative who shall not (1) have attained the age of 25 years, and (2) been 7 years a citizen of the United States, and who shall not (3) when elected, be an inhabitant of that state in which he shall be chosen.

5 (142) 3. *Apportionment*—Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free per-

sons, including those bound to service for a term of years, and excluding Indians not taxed, $\frac{3}{5}$ of all other persons. The actual (98) enumeration shall be made within 3 years after the first meeting of the congress of the United States, and within every subsequent term of 10 years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every 30,000, but each state shall have at least 1 representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose 3; Massachusetts, 8; Rhode Island and Providence Plantations, 1: Connecticut, 5; New York, 6; New Jersey, 4; Pennsylvania, 8; Delaware, 1; Maryland, 6; Virginia, 10; North Carolina, 5; South Carolina, 5; and Georgia 3.

4. *Vacancies*—When vacancies happen in the representation 6
from any state, the executive authority thereof shall issue writs (149)
of election to fill such vacancies.

5. *Officers*—The house of representatives shall choose their 7
speaker and other officers, and shall have the sole power of im- (150)
peachment. (218)

SECTION 3—SENATE

1. *Election*—The senate of the United States shall be composed 8
of 2 senators from each state, chosen by the legislature thereof, (137)
for six years; and each senator shall have 1 vote.

2. Immediately after they shall be assembled in consequence 9
of the first election, they shall be divided as equally as may be into 3 classes. The seats of the senators of the 1st class shall be vacated at the expiration of the 2d year, of the 2d class at the expiration of the 4th year, and of the 3d class at the expiration of the 6th year, so that $\frac{1}{3}$ may be chosen every 2d year; and if vacancies happen, by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

3. *Qualifications*—No person shall be a senator who shall not 10
have (1) attained the age of 30 years, and (2) been 9 years a citi- (148)
zen of the United States, and who shall not (3), when elected, be (4)
an inhabitant of that state for which he shall be chosen.

4. *Officers*—The vice-president of the United States shall be 11

(189) president of the senate, but shall have no vote unless they be equally divided.

12 5. The senate shall choose their other officers, and also a president
(150) *pro tempore* in the absence of the vice-president, or when he shall exercise the office of president of the United States.

13 6. *Impeachment*—The senate shall have the sole power to try all
(218) impeachments. When sitting for that purpose, they shall be
(61) on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of ⅔ of the members present.

14 7. Judgments in cases of impeachments shall not extend fur-
(218) ther than removal from office, and disqualification to hold and en-
(187) joy any office of honor, trust or profit under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment, according to law.

SECTION 4—ELECTIONS AND MEETINGS OF CONGRESS

15 1. *Elections*—The times, places and manner of holding elections
(149) for senators and representatives shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the place of choosing senators.

16 2. *Meetings*—The congress shall assemble at least once in every
(265) year; and such meeting shall be on the 1st Monday in December, unless they shall by law appoint a different day.

SECTION 5—ORGANIZATION

17 1. *Quorum*—Each house shall be the judge of the elections, re-
(150) turns and qualifications of its own members, and a majority of each shall constitute a quroum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

18 2. *Rules*—Each house may determine the rules of its proceed-
(150) ings, punish its members for disorderly behavior, and with the concurrence of ⅔, expel a member.

19 3. *Journal*—Each house shall keep a journal of its proceedings,
(151) and from time to time publish the same, excepting such parts as
(178) may, in their judgment, require secrecy; and the yeas and nays

of the members of either house on any question shall, at the desire of ⅕ of those present, be entered on the journal. (227)

4. *Adjournment*—Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than 3 days, nor to any other place than that in which the two houses shall be sitting. 20 (151)

SECTION 6—MEMBERS AS INDIVIDUALS

1. *Pay and privileges*—The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place. 21 (146) (152)

2. *Prohibitions*—No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office. 22 (147) (148)

SECTION 7—REVENUE BILLS; THE VETO 23 (153)

1. *Revenue bills*—All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills. (173) (177) (178)

2. *The veto*—Every bill which shall have passed the house of representatives and the senate shall, before it become a law, be presented to the president of the United States; if he approve, he shall sign it; but if not he shall return it, with his objections, to that house in which it shall have originated; who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, ⅔ of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and, if approved by ⅔ of that house, it shall become a law. But in all such cases, the votes of houses shall be determined by yeas and 24 (191)

nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within 10 days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the congress, by their adjournment, prevent its return, in which case it shall not be a law.

(154) 3. Every order, resolution or vote, to which the concurrence of the senate and the house of representatives may be necessary (except on a question of adjournment), shall be presented to the president of the United States; and, before the same shall take effect, shall be approved by him; or, being disapproved by him shall be repassed by ⅔ of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION 8—LEGISLATIVE POWERS

(174) The congress shall have power:

(177) (233) (230) (232) 1. To lay and collect taxes, duties, imposts, and excises; to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States.

2. To borrow money on the credit of the United States.

(126) 3. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes.

4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

6. To provide for the punishment of counterfeiting the securities and current coin of the United States.

7. To establish post-offices and post-roads.

8. To promote the progress of science and useful arts, by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.

9. To constitute tribunals inferior to the supreme court.

10. To define and punish piracies and felonies committed on the high seas, and offences against the law of nations.

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water. 36

12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than 2 years. 37

13. To provide and maintain a navy. 38

14. To make rules for the government and regulation of the land and naval forces. 39

15. To provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions. 40

16. To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States; reserving to the states respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by congress. 41 (269 to 274)

17. To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding 10 miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of government of the United States; and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; and 42

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof. 43 (136)

SECTION 9—PROHIBITIONS UPON THE UNITED STATES

1. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year 1808; but a tax or duty may be imposed on such importation not exceeding $10 for each person. 44 (98)

2. The privilege of the writ of habeas corpus shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it. 45 (115)

3. No bill of attainder, or ex post facto law shall be passed. 46

47 4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

48 5. No tax or duty shall be laid on any articles exported from any state. No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to or from one state be obliged to enter, clear or pay duties in another.

49 6. No money shall be drawn from the treasury but in conse-
(174) quence of appropriations made by law: and a regular statement
(172) and account of the receipts and expenditures of all public money shall be published from time to time.

50 7. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the congress, accept of any present, emolument, office or title of any kind whatever, from any king, prince, or foreign state.

51 SECTION 10—PROHIBITIONS UPON THE STATES

(62) 1. *Absolute*—No state shall (1) enter into any treaty, alliance or
(36) confederation; (2) grant letters of marque and reprisal; (3) coin
(30) money; (4) emit bills of credit; (5) make anything but gold and
(27) silver coin a tender in payment of debts; (6) pass any bill of
(46) attainder, ex post facto law, or law impairing the obligation of
(51) contracts; or (7) grant any title of nobility.
(50)

52 2. *Except by consent of congress*—No state shall, without consent
(26) of congress, (1) lay any imports or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any state on imports or exports shall be for the use of the treasury of the United States, and all such laws shall be subject to the revision and control of the congress. No state shall, with-
(37) out the consent of congress, (2) lay any duty of tonnage, (3)
(38) keep troops or ships of war in time of peace, (4) enter into any
(62) agreement or compact with another state, or with a foreign
(36) power, or (5) engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II—Executive

SECTION 1—THE PRESIDENT AND VICE-PRESIDENT

1. *Election*—The executive power shall be vested in a president 53
of the United States of America. He shall hold his office during (183)
the term of 4 years; and together with the vice-president chosen
for the same term, be elected as follows:

2. Each state shall appoint, in such manner as the legislature 54
thereof may direct, a number of electors equal to the whole num- (185)
ber of senators and representatives to which the state may be
entitled in the congress; but no senator or representative, or per-
son holding an office of trust or profit under the United States,
shall be appointed an elector.

The following clause has been superseded by article XII of the amendments:

3. The electors shall meet in their respective states, and vote by ballot 55
for 2 persons, of whom one at least shall not be an inhabitant of the same (95
state with themselves. And they shall make a list of all the persons voted to
for, and of the number of votes for each, which list they shall sign and cer- 97)
tify, and transmit, sealed, to the seat of the government of the United
States, directed to the president of the senate. The president of the senate
shall, in the presence of the senate and house of representatives, open all
the certificates, and the votes shall then be counted. The person having
the greatest number of votes shall be the president, if such number be a
majority of the whole number of electors appointed, and if there be more
than one who have such majority, and have an equal number of votes, then
the house of representatives shall immediately choose by ballot one of them
for president; and if no person have a majority, then, from the 5 highest
on the list, the said house shall, in like manner, choose the president.
But in choosing the president, the votes shall be taken by states, the repre-
sentation from each state having 1 vote: a quorum for this purpose shall con-
sist of a member or members from ⅔ of the states, and a majority of all the
states shall be necessary to a choice. In every case, after the choice of the
president, the person having the greatest number of votes of the electors
shall be the vice-president. But if there should remain 2 or more who have
equal votes, the senate shall choose from them, by ballot, the vice-president.

4. The congress may determine the time of choosing the elec- 56
tors, and the day on which they shall give their votes, which day
shall be the same throughout the United States.

5. *Qualifications*—No person, except (1) a natural born citizen 57
or a citizen of the United States at the time of the adoption of (184)
this constitution shall be eligible to the office of president; neither
shall any person be eligible to that office who shall not have (2)

attained to the age of 35 years, and (3) been 14 years a resident within the United States.

58 6. *Vacancy*—In case of the removal of the president from office,
(188) or of his death, resignation or inability to discharge the powers and duties of said office, the same shall devolve on the vice-president; and the congress may, by law, provide for the case of re-
(189) moval, death, resignation or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

59 7. *Salary*—The president shall, at stated times, receive for his
(186) services a compensation which shall neither be increased or dimin-
(167) ished during the period for which he shall have been elected; and
(268) he shall not receive within that period any other emolument from the United States, or any of them.

60 8. *Oath*—Before he enter on the execution of his office, he shall
(82) take the following oath of affirmation:
(280) "I do solemnly swear (or affirm) that I will faithfully execute
(281) the office of president of the United States; and will, to the best of my ability, preserve, protect and defend the constitution of the United States."

Section 2—Powers of the president

61 1. The president shall be (1) commander-in-chief of the army and
(186) navy of the United States, and of the militia of the several states, when called into the actual service of the United States. He may (2) require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the
(187) duties of their respective offices; and he shall (3) have power to grant reprieves and pardon for offences against the United States, except in cases of impeachment.

62 2. He shall (4) have power, by and with the advice and consent of the senate, to make treaties, provided ⅔ of the senators present concur; and he shall (5) nominate, and by and with the advice
(201) and consent of the senate shall appoint, (*a*) ambassadors, (*b*) other
(210) public ministers and consuls, (*c*) judges of the supreme court,
(194) and (*d*) all other officers of the United States whose appointments
(195) are not herein otherwise provided for, and which shall be estab-

lished by law. But the congress may, by law, vest the appointment of such inferior officers as they think proper, in the president alone, in the courts of law, or in the heads of departments. (252) (192)

3. The president shall (6) have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session. 63 (194) (198) (211) (221)

SECTION 3

1. He shall, from time to time, (7) give to the congress information of the state of the union, and (8) recommend to their consideration such measures as he shall judge necessary and expedident. He may, (9) on extraordinary occasions, convene both houses, or either of them; and in case of disagreement between them with respect to the time of adjournment, he may (10) adjourn them to such time as he shall think proper. He shall (11) receive ambassadors and other public ministers. He shall (12) take care that the laws be faithfully executed; and shall (13) commission all the officers of the United States. 64 (186)

SECTION 4—IMPEACHMENTS

1. The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery or other higher crimes and misdemeanors. 65 (216) (218)

ARTICLE III—Judicial

SECTION 1—COURTS

1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office. 66 (210) (201) (207) (216) (217)

SECTION 2—JURISDICTION

1. *Extent*—The judicial power shall extend to (1) all cases in law and equity arising under this constitution, the laws of the United States and treaties made, or which shall be made under 67 (208) (206)

(213) their authority; to (2) all cases affecting ambassadors, other public ministers and consuls; to (3) all cases of admiralty and maritime jurisdiction; to (4) controversies to which the United States shall be a party; to controversies (5) between 2 or more states; (6) between a state and citizens of another state; (7) between citizens of different states; (8) between citizens of the same state claiming lands under grants of different states, and (9) between a state, or the citizens thereof, and foreign states, citizens or subjects.

68 2. *Original and appellate*—In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court
(212) shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the congress shall make.

69 3. *Criminal*—The trial of all crimes, except in cases of im-
(113) peachment, shall be by jury, and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

Section 3—Treason

70 1. *Definition and proof*—Treason against the United States shall consist only in levying war against them or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of 2 witnesses to the same overt act, or on confession in open court.

71 2. *Limit*—The congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV—Relations of states

Section 1—Public records

72 1. Full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state; and the congress may, by general laws, prescribe the manner in

which such acts, records and proceedings shall be proved, and the effect thereof.

SECTION 2—RIGHTS OF CITIZENS

1. *In other states*—The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states. 73

2. *Extradition*—A person charged in any state with treason, felony or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime. 74

3. *A relic of slavery*—No person held to service or labor in one state under the laws thereof, escaping into another shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered upon claim of the party to whom such service or labor may be due. 75 (98)

SECTION 3—NEW STATES AND TERRITORIES

1. *New states*—New states may be admitted by the congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of 2 or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress. 76

2. *Territories*—The congress shall have power to dispose of, and make all needful rules and regulation respecting, the territory or other property belonging to the United States, and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state. 77 (237) (121)

SECTION 4—NATIONAL PROTECTION

1. The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion; and, on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence. 78

ARTICLE V—Amendments

1. The congress, whenever ⅔ of both houses shall deem it necessary, shall propose amendments to this constitution; or, on the application of the legislatures of ⅔ of the several states, shall 79 (287)

call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution when ratified by the legislatures of ¾ of the several states, or by conventions of ¾ thereof, as the one or the other mode of ratification may be proposed by congress; provided that no
(44) amendment, which may be made prior to the year 1808, shall in
(47) any manner affect the 1st and 4th clauses in the 9th section of the
(8) 1st article, and that no state without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI—Sundry provisions

80 1. *National debts*—All debts contracted and engagements en-
(128) tered into before the adoption of this constitution shall be as valid against the United States under this constitution, as under the confederation.

81 2. *National law supreme*—This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

82 3. *Oaths*—The senators and representatives before mentioned,
(280) and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII—Establishment

83 1. The ratification of the conventions of 9 states shall be suffi-
(290) cient for the establishment of this constitution between the states so ratifying the same.—*Constitution ratified by states, 1787–90.*

AMENDMENTS

I—Freedom of religion, speech, and petition

84 Congress may make no law respecting an establishment of
(114) religion, or prohibiting the free exercise thereof; or abridging the
(119) freedom of speech or of the press; or the right of the people
(120) peaceably to assemble, and to petition the government for a redress of grievances.—*(1791).*

II—Arms

85

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.—(*1791*). (269 to 274)

III—Quartering of soldiers

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.—(*1791*). 86

IV.—Search warrants

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.—(*1791.*) 87

V—Criminal proceedings

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.—(*1791.* 88 (117) (118)

VI—Criminal proceedings

In all criminal proceedings, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.—(*1791.*) 89

VII—Trial by jury

In suits at common law, where the value in controversy shall 90

(113) exceed $20, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law—(*1791.*)

VIII—Excessive bail and punishment

91 (116) Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.—(*1791.*)

IX—Rights not named

92 The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people. —(*1791.*)

X—Powers reserved by the states

93 The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.—(*1791.*)

XI—Suits against states

94 The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.—(*1798.*)

XII—Election of president

95 (55) 1. The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom at least shall not be an inhabitant of the same state with themselves. They shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from

the persons having the highest numbers, not exceeding 3, on the list of those voted for as president, the house of representatives (185) shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from ⅔ of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president, whenever the right of the choice shall devolve upon them, before the 4th day of March next following, then the vice president shall act as president as in the case of the death or other constitutional disability of the president.

2. The person having the greatest number of votes as vice- 96 president shall be the vice-president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the 2 highest numbers on the list the senate shall choose the vice-president. A quorum for the purpose shall consist of ⅔ of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of 97 president shall be eligible to that of vice-president of the United (189) States.—(*1804*) (184)

XIII—Slavery abolished

Neither slavery nor involuntary servitude, except as a punish- 98 ment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction. Congress shall have power to enforce this article by appropriate legislation.—(*1865.*)

XIV—Civil rights

1. *Civil rights*—All persons born or naturalized in the United 99 States and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States; nor shall any state deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

100 2. *Apportionment of representatives*—Representatives shall be
(139) apportioned among the several states according to their respec-
(142) tive numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being 21 years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male persons shall bear to the whole number of male citizens 21 years of age in such state.

101 3. *Political disabilities*—No person shall be a senator or representative in congress, or elector of president and vice-president, or hold any office, civil or military, under the United States, or under any state, who having previously taken an oath as a member of congress, or as an officer of the United States, or as any member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a $\frac{2}{3}$ vote of each house, remove such disability.

102 4. *Public debt*—The validity of the public debt of the United
(233) States authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection and rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

103 5. The congress shall have power to enforce, by appropriate legislation, the provisions of this article.—(*1868.*)

XV—Suffrage

1. The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude. 104 (112)

2. The congress shall have power to enforce this article by appropriate legislation.—(*1870.*) 105

CONSTITUTION OF THE STATE OF OHIO

RATIFIED THIRD TUESDAY IN JUNE, 1851

As amended and in force April 1, 1902

We, the people of the State of Ohio, grateful to Almighty God for our freedom, to secure its blessings and promote our common welfare, do establish this Constitution.

ARTICLE I—Bill of Rights

1. *Inalienable rights*—All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety.

2. *Political power*—All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same, whenever they may deem it necessary; and no special privileges or immunities shall ever be granted, that may not be altered, revoked, or repealed by the general assembly.

3. *Right of petition*—The people have the right to assemble together in a peaceable manner, to consult for their common good; to instruct their representatives; and to petition the general assembly for the redress of gievances.

4. *Right to bear arms*—The people have the right to

bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be kept up; and the military shall be in strict subordination to the civil power.

5. *Trial by jury*—The right of trial by jury shall be inviolate.

6. *Slavery*—There shall be no slavery in this state; nor involuntary servitude, unless for the punishment of crime.

7. *Religious rights*—All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given, by law, to any religious society; nor shall any interference with the rights of conscience be permitted. No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the general assembly to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

8. *Habeas corpus*—The privilege of the writ of habeas corpus shall not be suspended, unless in cases of rebellion or invasion the public safety require it.

9. *Bail, fines*—All persons shall be bailable by sufficient sureties, except for capital offenses where the proof is evident, or the presumption great. Excessive bail shall not be required; nor excessive fines imposed; nor cruel and unusual punishments inflicted.

10. *Indictment by grand jury*—Except in cases of impeachment, and cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, and in cases of petit larceny and other inferior offenses, no person shall be held to answer for a capital or otherwise infamous crime, unless on presentment or indictment of a grand jury. In any trial, in any court, the party accused shall be allowed to appear and defend in person and with counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed; nor shall any person be compelled, in any criminal case, to be a witness against himself, or be twice put in jeopardy for the same offense.

11. *Free speech and press*—Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of the right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all criminal prosecutions for libel, the truth may be given in evidence to the jury, and if it shall appear to the jury, that the matter charged as libelous is true, and was published

with good motives and for justifiable ends, the party shall be acquitted.

12. *Restrictions on penalties*—No person shall be transported out of the state, for any offense committed within the same; and no conviction shall work corruption of blood or forfeiture of estate.

13. *Quartering of soldiers*—No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor, in time of war, except in the manner prescribed by law.

14. *Search warrants*—The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures shall not be violated; and no warrant shall issue, but upon probable cause supported by oath or affirmation, particularly describing the place to be searched and the person and things to be seized.

15. *Debt*—No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud.

16. *Courts open to all*—All courts shall be open, and every person for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law; and justice administered without denial or delay.

17. *Honors*—No hereditary emoluments, honors, or privileges, shall ever be granted or conferred by this state.

18. *Suspending laws*—No power of suspending laws shall ever be exercised, except by the general assembly.

19. *Eminent domain*—Private property shall ever be held inviolate, but subservient to the public welfare.

When taken in time of war or other public exigency imperatively requiring its immediate seizure, or for the purpose of making or repairing roads, which shall be open to the public, without charge, a compensation shall be made to the owner, in money; and in all other cases, where private property shall be taken for public use, a compensation therefor shall first be made in money, or first secured by a deposit of money; and such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner.

20. *Saving clause*—This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers, not herein delegated, remain with the people.

ARTICLE II—Legislative

1. *Two houses*—The legislative power of this state shall be vested in a general assembly, which shall consist of a senate, and house of representatives.

2. *Election day.*—Senators and representatives shall be elected biennially by the electors of the respective counties or districts, on the first Tuesday after the first Monday in November; their term of office shall commence on the first day of January next thereafter, and continue two years. [*As amended October 13, 1885;* 82 v. 446]

3. *Qualification*—Senators and representatives shall have resided in their respective counties, or districts, one year next preceding their election, unless they shall have been absent on the public business of the United States, or of this state.

4. *Disqualification*—No person holding office under the authority of the United States, or any lucrative

office under the authority of this state, shall be eligible to or have a seat in, the general assembly; but this provision shall not extend to township officers, justices of the peace, notaries public, or officers of the militia.

5. *Disqualification*—No person hereafter convicted of an embezzlement of the public funds, shall hold any office in this state; nor shall any person, holding public money for disbursement, or otherwise, have a seat in the general assembly, until he shall have accounted for, and paid such money into the treasury.

6. *Election returns, quorum*—Each house shall be judge of the election, returns, and qualifications of its own members; a majority of all the members elected to each house shall be a quorum to do business; but a less number may adjourn from day to day, and compel the attendance of absent members, in such manner, and under such penalties as shall be prescribed by law.

7. *Organization of house*—The mode of organizing the house of representatives, at the commencement of each regular session, shall be prescribed by law.

8. *Officers*—Each house, except as otherwise provided in this constitution, shall choose its own officers, may determine its own rules of proceeding, punish its members for disorderly conduct; and, with the concurrence of two-thirds, expel a member, but not the second time for the same cause; and shall have all other powers, necessary to provide for its safety, and the undisturbed transaction of its business.

9. *Journal*—Each house shall keep a correct journal of its proceedings, which shall be published. At the desire of any two members, the yeas and nays shall be entered upon the journal; and, on the passage of every

bill, in either house, the vote shall be taken by yeas and nays, and entered upon the journal; and no law shall be passed in either house without the concurrence of a majority of all the members elected thereto.

10. *Right to protest*—Any member of either house shall have the right to protest against any act or resolution thereof, and such protest, and the reasons therefor, shall, without alteration, commitment or delay, be entered upon the journal.

11. *Vacancies*—All vacancies which may happen in either house shall, for the unexpired term, be filled by election, as shall be directed by law.

12. *Privilege of members*—Senators and representatives, during the session of the general assembly, and in going to, and returning from the same, shall be privileged from arrest, in all cases, except treason, felony, or breach of the peace; and for any speech, or debate, in either house, they shall not be questioned elsewhere.

13. *Public sessions*—The proceedings of both houses shall be public, except in cases which, in the opinion of two-thirds of those present, require secrecy.

14. *Adjournment*—Neither house shall, without the consent of the other, adjourn for more than two days, Sundays excluded; nor to any other place than that in which the two houses shall be in session.

15. *Bills*—Bills may originate in either house; but may be altered, amended, or rejected in the other.

16. *Deliberate legislation*—Every bill shall be fully and distinctly read on three different days; unless, in case of urgency, three-fourths of the house, in which it

shall be pending, shall dispense with this rule. No bill shall contain more than one subject, which shall be clearly expressed in its title; and no law shall be revived, or amended, unless the new act contain the entire act revived, or the section or sections amended, and the section, or sections, so amended, shall be repealed.

17. *Signing of bills*—The presiding officer of each house shall sign, publicly in the presence of the house over which he presides, while the same is in session, and capable of transacting business, all bills and joint resolutions passed by the general assembly.

18. *Enacting clause*—The style of the laws of this state shall be, "*Be it enacted by the General Assembly of the State of Ohio.*"

19. *Restrictions*—No senator or representative shall, during the term for which he shall have been elected, or for one year thereafter, be appointed to any civil office under this state, which shall be created, or the emoluments of which shall have been increased, during the term for which he shall have been elected.

20. *Officers*—The general assembly, in cases not provided for in this constitution, shall fix the term of office and the compensation of all officers; but no change therein shall affect the salary of any officer during his existing term, unless the office be abolished.

21. *Contested elections*—The general assembly shall determine, by law, before what authority, and in what manner, the trial of contested elections shall be conducted.

22. *Appropriations*—No money shall be drawn from the treasury, except in pursuance of a specific appro-

priation, made by law; and no appropriation shall be made for a longer period than two years.

23. *Impeachment*—The house of representatives shall have the sole power of impeachment, but a majority of the members elected must concur therein. Impeachments shall be tried by the senate; and the senators, when sitting for that purpose, shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the senators.

24. *Who may be impeached*—The governor, judges, and all state officers may be impeached for any misdemeanor in office; but judgment shall extend not further than removal from office, and disqualification to hold any office, under the authority of this state. The party impeached, whether convicted or not, shall be liable to indictment, trial, and judgment according to law.

25. *Date of meeting*—All regular sessions of the general assembly shall commence on the first Monday of January, biennially. The first session, under this constitution, shall commence on the first Monday of January, one thousand, eight hundred and fifty-two. (*See Con. 1802, Art. 1, § 25.*)

26. *General laws*—All laws of a general nature, shall have uniform operation throughout the state, nor shall any act, except such as relates to public schools, be passed, to take effect upon the approval of any other authority than the general assembly, except as otherwise provided in this constitution.

27. *Election, appointment, vacancies*—The election and appointment of all officers, and the filling of all vacan-

cies, not otherwise provided for by this constitution, or the constitution of the United States, shall be made in such manner as may be directed by law; but no appointing power shall be exercised by the general assembly, except as prescribed in this constitution and in the election of United States senators; and in these cases the vote shall be taken "*viva voce*".

28. *Retroactive laws*—The general assembly shall have no power to pass retroactive laws, or laws impairing the obligation of contracts; but may, by general laws, authorize courts to carry into effect, upon such terms as shall be just and equitable, the manifest intention of parties and officers, by curing omissions, defects, and errors, in instruments and proceedings, arising out of their want of conformity with the laws of this state.

29. *Extra compensation*—No extra compensation shall be made to any officer, public agent, or contractor, after the service shall have been rendered, or the contract entered into; nor shall any money be paid, on any claim, the subject-matter of which shall not have been provided for by pre-existing law, unless such compensation, or claim, be allowed by two-thirds of the members elected to each branch of the general assembly.

30. *New counties*—No new county shall contain less than four hundred square miles of territory, nor shall any county be reduced below that amount; and all laws creating new counties, changing county lines, or removing county seats, shall, before taking effect, be submitted to the electors of the several counties to be affected thereby, at the next general election after the

passage thereof, and be adopted by a majority of all the electors voting at such election, in each of said counties; but any county now or hereafter containing one hundred thousand inhabitants, may be divided, whenever a majority of the voters residing in each of the proposed divisions shall approve of the law passed for that purpose; but no town or city within the same shall be divided, nor shall either of the divisions contain less than twenty thousand inhabitants.

31. *Salaries*—The members and officers of the general assembly shall receive a fixed compensation, to be prescribed by law, and no other allowance or perquisites, either in the payment of postage or otherwise; and no change in their compensation shall take effect during their term of office.

32. *Divorces*—The general assembly shall grant no divorce nor exercise any judicial power not herein expressly conferred.

ARTICLE III—Executive

1. *Executive officers*—The executive department shall consist of a governor, lieutenant-governor, secretary of state, auditor of state, treasurer of state, and an attorney-general, who shall be elected on the first Tuesday after the first Monday in November, by the electors of the state, and at the places of voting for members of the general assembly. [*As amended October 13, 1885*; 82 v. 446.]

2. *Terms*—The governor, lieutenant-governor, secretary of state, treasurer, and attorney-general shall hold their offices for two years; and the auditor for four years. Their terms of office shall commence on the second Monday of January next after their elec-

tion, and continue until their successors are elected and qualified.

3. *Canvassing election returns*—The returns of every election for the officers named in the foregoing section shall be sealed up and transmitted to the seat of government, by the returning officers, directed to the president of the senate, who, during the first week of the session, shall open and publish them, and declare the result, in the presence of a majority of the members of each house of the general assembly. The person having the highest number of votes shall be declared duly elected, but if any two or more shall be highest and equal in votes for the same office, one of them shall be chosen by the joint vote of both houses.

4. *By secretary of state*—Should there be no session of the general assembly in January next after an election for any of the officers aforesaid, the returns of such election shall be made to the secretary of state, and opened, and the result declared by the governor, in such manner as may be provided by law.

5. *Vesting of executive power*—The supreme executive power of this state shall be vested in the governor.

6. *Power*—He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices, and shall see that the laws are faithfully executed.

7. *Messages*—He shall communicate at every session, by message, to the general assembly, the condition of the state, and recommend such measures as he shall deem expedient.

8. *Special session of the legislature*—He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to both houses, when assembled, the purpose for which they have been convened.

9. *May adjourn same*—In case of a disagreement between the two houses, in respect to the time of adjournment, he shall have power to adjourn the general assembly to such time as he may think proper, but not beyond the regular meetings thereof.

10. *Commander-in-chief*—He shall be commander-in-chief of the military and naval forces of the state, except when they shall be called into the service of the United States.

11. *Pardons*—He shall have power, after conviction, to grant reprieves, commutations, and pardons, for all crimes and offenses, except treason and cases of impeachment, upon such conditions as he may think proper; subject, however, to such regulations, as to the manner of applying for pardons, as may be prescribed by law. Upon conviction for treason, he may suspend the execution of the sentence, and report the case to the general assembly at its next meeting, when the general assembly shall either pardon, commute the sentence, direct its execution, or grant a further reprieve. He shall communicate to the general assembly, at every regular session, each case of reprieve, commutation, or pardon granted, stating the name and crime of the convict, the sentence, its date, and the date of the commutation, pardon, or reprieve, with his reasons therefor.

12. *Great seal*—There shall be a seal of the state,

which shall be kept by the governor, and used by him officially; and shall be called "The Great Seal of the State of Ohio."

13. *Commissions*—All grants and commissions shall be used in the name and by the authority of the state of Ohio; sealed with the great seal; signed by the governor, and countersigned by the secretary of state.

14. No member of congress, or other person holding office under the authority of this state, or of the United States, shall execute the office of governor, except as herein provided.

15. *Lieutenant-governor*—In case of the death, impeachment, resignation, removal, or other disability of the governor, the powers and duties of the office for the residue of the term, or until he shall be acquitted, or the disability removed, shall devolve upon the lieutenant governor.

16. *His duties*—The lieutenant-governor shall be president of the senate, but shall vote only when the senate is equally divided; and in case of his absence, or impeachment, or when he shall exercise the office of governor, the senate shall choose a president *pro tempore.*

17. *Succession*—If the lieutenant-governor, while executing the office of governor, shall be impeached, displaced, resign or die, or otherwise become incapable of performing the duties of the office, the president of the senate shall act as governor, until the vacancy is filled, or the disability removed; and if the president of the senate, for any of above causes, shall be rendered incapable of performing the duties pertain-

ing to the office of governor the same shall devolve upon the speaker of the house of representatives.

18. *Vacancies*—Should the office of auditor, treasurer, secretary, or attorney-general, become vacant, for any of the causes specified in the fifteenth section of this article, the governor shall fill the vacancy until the disability is removed, or a successor elected and qualified. Every such vacancy shall be filled by election, at the first general election that occurs more than thirty days after it shall have happened; and the person chosen shall hold the office for the full term fixed in the second section of this article.

19. *Salaries*—The officers mentioned in this article shall, at stated times, receive for their services, a compensation to be established by law, which shall neither be increased nor diminished during the period for which they shall have been elected.

20. *Reports*—The officers of the executive department, and of the public state institutions shall, at least five days preceding each regular session of the general assembly, severally report to the governor, who shall transmit such reports, with his message, to the general assembly.

ARTICLE IV—Judicial

1. *Judicial power*—The judicial power of the state is vested in a supreme court, circuit courts, courts of common pleas, courts of probate, justices of the peace, and such other courts inferior to the supreme court, as the general assembly may, from time to time establish. [*As amended October 9, 1883;* 80 v. 382.]

2. *Supreme court*—The supreme court shall, until otherwise provide [provided] by law, consist of five

judges, a majority of whom competent to sit shall be necessary to form a quorum or to pronounce a decision, except as hereinafter provided. It shall have original jurisdiction in quo warranto, mandamus, habeas corpus and procedendo, and such appellate jurisdiction as may be provided by law. It shall hold at least one term in each year at the seat of government, and such other terms, there or elsewhere, as may be provided by law. The judges of the supreme court shall be elected by the electors of the state at large, for such term, not less than five years, as the general assembly may prescribe, and they shall be elected and their official term shall begin at such time as may be fixed by law. In case the general assembly shall increase the number of such judges, the first term of each of such additional judges shall be such, that in each year after their first election, an equal number of judges of the supreme court shall be elected, except in elections to fill vacancies; and whenever the number of such judges shall be increased, the general assembly may authorize such court to organize divisions thereof, not exceeding three, each division to consist of an equal number of judges; for the adjudication of cases, a majority of each division shall constitute a quorum, and such an assignment of the cases to each division may be made as such court may deem expedient, but whenever all the judges of either division hearing a case shall not concur as to the judgment to be rendered therein, or whenever a case shall involve the constitutionality of an act of the general assembly or of an act of congress, it shall be reserved to the whole court for adjudication. The judges

of the supreme court in office when this amendment takes effect, shall continue to hold their offices until their successors are elected and qualified. [*As amended October 9, 1883;* 80 v. 382.]

3. *Common pleas court*—The state shall be divided into nine common pleas districts, of which the county of Hamilton shall constitute one, of compact territory, and bounded by county lines; and each of said districts, consisting of three or more counties, shall be subdivided into three parts, of compact territory, bounded by county lines, and as nearly equal in population as practicable; in each of which, one judge of the court of common pleas for said district, and residing therein, shall be elected by the electors of said subdivision. Courts of common pleas shall be held by one or more of these judges, in every county in the district, as often as may be provided by law; and more than one court, or sitting thereof, may be held at the same time in each district.

4. *Jurisdiction*—The jurisdiction of the courts of common pleas, and of the judges thereof shall be fixed by law. [*Repealed October 9, 1883*; 80 v. 382.]

5. *District courts* shall be composed of the judges of the court of common pleas (1) of the respective districts, and one of the judges of the supreme court, (2) any three of whom shall be a quorum, and shall be held in each county therein, at least once in each year; but if it shall be found inexpedient to hold such court annually, in each county of any district, the general assembly may, for such district, provide that said court shall hold at least three annual sessions therein, in not less than three places: provided, that

the general assembly may, by law, authorize the judges of each district to fix the terms of holding courts therein. [*Repealed Oct. 9, 1883;* 80 v. 382.]

6. *Circuit court*—The circuit court shall have like original jurisdiction with the supreme court, and such appellate jurisdiction as may be provided by law. Such courts shall be composed of such number of judges as may be provided by law, and shall be held in each county at least once in each year. The number of circuits and boundaries thereof, shall be prescribed by law. Such judges shall be elected in each circuit by the electors thereof, and at such time and for such term as may be prescribed by law, and the same number shall be elected in each circuit. Each judge shall be competent to exercise his judicial powers in any circuit. The general assembly may change, from time to time, the number of boundaries of the circuits. The circuit courts shall be the successors of the district courts, and all cases, judgments, records, and proceedings pending in said district courts, in the several counties of any district, shall be transferred to the circuit courts in the several counties, and be proceeded in as though said district courts had not been abolished, and the district courts shall continue in existence until the election and qualification of the judges of the circuit courts. [*As amended October 9, 1883;* 80 v. 382.]

7. *Probate court*—There shall be established in each county, a probate court, which shall be a court of record, open at all times, and holden by one judge, elected by the voters of the county, who shall hold his office for the term of three years and shall receive

such compensation payable out of the county treasury, or by fees, or both, as shall be provided by law.

8. *Probate jurisdiction*—The probate court shall have jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the settlement of accounts of executors, administrators and guardians, and such jurisdiction in habeas corpus, the issuing of marriage licenses, and for the sale of land by executors, administrators, and guardians, and such other jurisdiction, in any county, or counties, as may be provided by law.

9. *Justices of the peace*—A competent number of justices of the peace shall be elected, by the electors, in each township in the several counties. Their term of office shall be three years, and their powers and duties shall be regulated by law.

10. *Judges provided for by legislature*—All judges, other than those provided for in this constitution, shall be elected by the electors of the judicial district for which they may be created, but not for a longer term of office than five years.

11. [*Repealed October 9, 1883;* 80 v. 382.]

12. *Common pleas judges*—The judges of the courts of common pleas shall, while in office, reside in the district for which they are elected; and their term of office shall be for five years.

13. *Vacancy*—In case the office of any judge shall become vacant, before the expiration of the regular term for which he was elected, the vacancy shall be filled by appointment by the governor, until a successor is elected and qualified; and such successor is elected

and qualified; and such successor shall be elected for the unexpired term, at the first annual election that occurs more than thirty days after the vacancy shall have happened.

14. *Salary*—The judges of the supreme court, and of the court of common pleas, shall, at stated times, receive, for their services, such compensation as may be provided by law, which shall not be diminished or increased, during their term of office; but they shall receive no fees or perquisites, nor hold any other office of profit or trust, under the authority of this state, or the United States. All votes for either of them, for any elective office, except a judicial office, under the authority of this state, given by the general assembly or the people, shall be void.

15. *Number of judges*—The general assembly may increase or diminish the number of the judges of the supreme court, the number of the districts of the court of common pleas, the number of judges in any district, change the districts, or the subdivisions thereof, or establish other courts, whenever two-thirds of the members elected to each house shall concur therein; but no such change, addition or diminution, shall vacate the office of any judge.

16. *County clerk*—There shall be elected in each county, by the electors thereof, one clerk of the court of common pleas, who shall hold his office for the term of three years, and until his successor shall be elected and qualified. He shall, by virtue of his office, be clerk of all other courts of record held therein; but the general assembly may provide, by law, for the elec-

tion of a clerk, with a like term of office, for each or any other of the courts of record, and may authorize the judge of the probate court to perform the duties of clerk for his court under such regulations as may be directed by law. Clerks of courts shall be removable for such cause and in such manner as shall be prescribed by law.

17. *Removal from office*—Judges may be removed from office, by concurrent resolution of both houses of the general assembly, if two-thirds of the members, elected to each house, concur therein; but no such removal shall be made, except upon complaint, the substance of which shall be entered on the journal, nor, until the party charged shall have had notice thereof, and an opportunity to be heard.

18. *Jurisdiction*—The several judges of the supreme court, of the common pleas, and of such other courts as may be created, shall, respectively, have and exercise such power and jurisdiction, at chambers, or otherwise, as may be directed by law.

19. *Courts of conciliation*—The general assembly may establish courts of conciliation, and prescribe their powers and duties; but such courts shall not render final judgment in any case, except upon submission, by the parties, of the matter in dispute, and their agreement to abide such judgment.

20. *Process*—The style of all process shall be "The State of Ohio;" all prosecutions shall be carried on, in the name, and by the authority, of the State of Ohio; and all indictments shall conclude, "against the peace and dignity of the State of Ohio."

21. *Supreme court commission*—A commission which shall consist of five members, shall be appointed by the governor, with the advice and consent of the senate, the members of which shall hold office for the term of three years from and after the first day of February, 1876, to dispose of such part of the business then on the dockets of the supreme court as shall, by arrangement between said commission and said court, be transferred to such commission; and said commission shall have like jurisdiction and power in respect to such business as are or may be vested in said court; and the members of said commission shall receive a like compensation for the time being with the judges of said court. A majority of the members of said commission shall be necessary to form a quorum or pronounce a decision, and its decision shall be certified, entered, and enforced as the judgment of the supreme court, and at the expiration of the term of said commission, all business undisposed of shall by it be certified to the supreme court, and disposed of as if said commission had never existed. The clerk and reporter of said court shall be the clerk and reporter of said commission and the commission shall have such other attendants, not exceeding in number those provided by law for said court, which attendants said commission may appoint and remove at its pleasure. Any vacancy occurring in said commission, shall be filled by appointment of the governor, with the advice and consent of the senate, if the senate be in session; and if the senate be not in session, by the governor, but in such last case, such appointment shall expire at the end of the next session of the general assembly.

The general assembly may on application of the supreme court, duly entered on the journal of the court and certified, provide by law, whenever two-thirds of such [each] house shall concur therein, from time to time, for the appointment, in like manner, of a like commission with like powers, jurisdiction, and duties; provided, that the term of any such commission shall not exceed two years, nor shall it be created oftener than once in ten years.

ARTICLE V—Elective Franchise

1. *Voters*—Every white male citizen of the United States, of the age of twenty-one years, who shall have been a resident of the state one year next preceding the election, and of the county, township, or ward, in which he resides, such time as may be provided by law, shall have the qualifications of an elector, and be entitled to vote at all elections.

2. *Elections by ballot*—All elections shall be by ballot.

3. *Privilege of electors*—Electors, during their attendance at elections, and in going to, and returning therefrom, shall be privileged from arrest in all cases, except treason, felony, and breach of the peace.

4. *Excluded from voting*—The general assembly shall have power to exclude from the privilege of voting, or of being eligible to office, any person convicted of bribery, perjury, or other infamous crime.

5. *Non-resident*—No person in the military, naval, or marine service of the United States, shall, by being stationed in any garrison, or military, or naval station, within the state, be considered a resident of this state.

6. *Non-voters*—No idiot, or insane person, shall be entitled to the privileges of an elector.

ARTICLE VI—Education

1. *Educational and religious fund*—The principal of all funds arising from the sale, or other disposition of lands, or other property, granted or entrusted to his state for educational and religious purposes, shall forever be preserved inviolate, and undiminished; and, the income arising therefrom, shall be faithfully applied to the specific objects of the original grants, or appropriations.

2. *Non-sectarian control of school fund*—The general assembly shall make such provisions, by taxation, or otherwise, as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the state; but no religious or other sect, or sects, shall ever have any exclusive right to, or control of, any part of the school funds of this state.

ARTICLE VII—Public Institutions

1. *Charitable institutions*—Institutions for the benefit of the insane, blind, and deaf and dumb, shall always be fostered and supported by the state; and be subject to such regulations as may be prescribed by the general assembly.

2. *Trustees of institutions*—The directors of the penitentiary shall be appointed or elected in such manner as the general assembly may direct; and the trustees of the benevolent and other state institutions, now elected by the general assembly, and of such other state institutions as may be hereafter created, shall

be appointed by the governor, by and with advice and consent of the senate; and upon all nominations made by the governor, the question shall be taken by yeas and nays, and entered upon the journals of the senate.

3. *Vacancies*—The governor shall have power to fill all vacancies that may occur in the offices aforesaid, until the next session of the general assembly, and until a successor to his appointee shall be confirmed and qualified.

ARTICLE VIII—Public Debt and Public Works

1. *Limitation of debt*—The state may contract debts to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for; but the aggregate amount of such debts, direct and contingent, whether contracted by virtue of one or more acts of the general assembly, or at different periods of time, shall never exceed seven hundred and fifty thousand dollars; and the money arising from the creation of such debts shall be applied to the purpose for which it was obtained, or to repay the debts so contracted, and to no other purpose whatever.

2. *Exceptions to sec. 1*—In addition to the above limited power, the state may contract debts to repel invasion, suppress insurrection, defend the state in war, or to redeem the present outstanding indebtedness of the state; but the money, arising from the contracting of such debts, shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever, and all debts, incurred to redeem the present outstanding indebtedness of the state, shall be so contracted as to be payable by the

sinking fund, hereinafter provided for, as the same shall accumulate.

3. *Restrictions*—Except the debts above specified in sections one and two of this article, no debt whatever shall hereafter be created by or on behalf of the state.

4. *State's credit*—The credit of the state shall not, in any manner, be given or loaned to, or in aid of, any individual association or corporation whatever; nor shall the state ever hereafter become a joint owner or stockholder in any company or association in this state, or elsewhere, formed for any purpose whatever.

5. *Assumption of local debts*—The state shall never assume the debts of any county, city, town, or township, or of any corporation whatever, unless such debt shall have been created to repel invasion, suppress insurrection, or defend the state in war.

6. *Legislature restricted*—The general assembly shall never authorize any county, city, town, or township, by vote of its citizens or otherwise, to become a stockholder in any joint stock company, corporation, or association whatever; or to raise money for, or loan its credit to, or in aid of, any such company, corporation, or association.

7. *Sinking fund*—The faith of the state being pledged for the payment of its public debt, in order to provide therefor there shall be created a sinking fund, which shall be sufficient to pay the accruing interest on such debt, and annually, to reduce the principal thereof, by a sum not less than one hundred thousand dollars, increased yearly, and each and every year, by compounding, at the rate of six per cent per annum. The said

sinking fund shall consist of the net annual income of the public works and stocks owned by the state, of any other funds or resources that are, or may be, provided by law, and of such further sum, to be raised by taxation, as may be required for the purposes aforesaid.

8. *Commissioners of sinking fund*—The auditor of state, secretary of state, and attorney-general, are hereby created a board of commissioners, to be styled, "The Commissioners of the Sinking Fund."

9. *Their duty*—The commissioners of the sinking fund shall, immediately preceding each regular session of the general assembly, make an estimate of the probable amount of the fund, provided for in the seventh section of this article, from all sources except from taxation, and report the same, together with all their proceedings relative to said fund and the public debt, to the governor, who shall transmit the same with his regular message, to the general assembly; and the general assembly shall make all necessary provision for raising and disbursing said sinking fund, in pursuance of the provisions of this article.

10. *Further duty*—It shall be the duty of said commissioners faithfully to apply said fund, together with all moneys that may be, by the general assembly, appropriated to that object, to the payment of the interest, as it becomes due, and the redemption of the principal of the public debt of the state, excepting only, the school and trust funds held by the state.

11. *Reports*—The said commissioners shall, semi-annually, make a full and detailed report of their proceedings to the governor, who shall immediately cause

the same to be published, and shall also communicate the same to the general assembly, forthwith, if it be in session, and if not, then at its first session after such report shall be made.

12. *Board of public works*—So long as this state shall have public works which require superintendence, there shall be a board of public works, to consist of three members, who shall be elected by the people, at the first general election after the adoption of this constitution, one for the term of one year, one for the term of two years, and one for the term of three years; and one member of said board shall be elected annually thereafter, who shall hold his office for three years.

13. *Their powers and duties*—The powers and duties of said board of public works, and its several members, and their compensation, shall be such as now are, or may be, prescribed by law.

ARTICLE IX—Militia

1. *Members of militia*—All white male citizens, residents of this state, being eighteen years of age, and under the age of forty-five years, shall be enrolled in the militia and perform military duty, in such manner, not incompatible with the constitution and laws of the United States, as may be prescribed by law.

2. *Elective officers*—Majors general, brigadiers general, colonels, lieutenant colonels, majors, captains, and subalterns, shall be elected by the persons subject to military duty, in their respective districts.

3. *Appointed officers*—The governor shall appoint the adjutant-general, quartermaster-general, and such

other staff officers, as may be provided for by law. Majors general, brigadiers general, colonels or commandants of regiments, battalions, or squadrons, shall, severally, appoint their staff, and captains shall appoint their non-commissioned officers and musicians.

4. *Commissions*—The governor shall commission all officers of the line and staff, ranking as such; and shall have power to call forth the militia, to execute the laws of the state, to suppress insurrection, and repel invasion.

5. *Arms*—The general assembly shall provide, by law, for the protection and safe keeping of the public arms.

ARTICLE X—County and Township Organizations

1. *County and township officers*—The general assembly shall provide, by law, for the election of such county and township officers as may be necessary.

2. *County election*—County officers shall be elected on the first Tuesday after the first Monday in November, by the electors of each county, in such manner, and for such term, not exceeding three years, as may be provided by law. [*As amended October 13, 1885;* 82 v. 446.]

3. *Terms limited*—No person shall be eligible to the office of sheriff, or county treasurer, for more than four years, in any period of six years.

4. *Township election*—Township officers shall be elected by the electors of each township at such time, in such manner, and for such term, not exceeding three years, as may be provided by law; but shall hold

their offices until their successors are elected and qualified. [*As amended October 13, 1885;* 82 v. 449.]

5. *Appropriations restricted*—No money shall be drawn from any county or township treasury, except by authority of law.

6. *Removal from office*—Justices of the peace, and county and township officers, may be removed, in such manner and for such cause, as shall be prescribed by law.

7. *Power to tax*—The commissioners of counties, the trustees of townships, and similar boards, shall have such power of local taxation, for police purposes, as may be prescribed by law.

ARTICLE XI—Apportionment

1. *Apportionment*—The apportionment of this state for members of the general assembly shall be made every ten years, after the year one thousand eight hundred and fifty-one, in the following manner: The whole population of the state, as ascertained by the federal census, or in such other mode as the general assembly may direct, shall be divided by the number "one hundred," and the quotient shall be the ratio of representation in the house of representatves, for ten years next succeeding such apportionment.

2. *Representative districts*—Every county having a population equal to one-half of said ratio, shall be entitled to one representative; every county, containing said ratio, and three-fourths over, shall be entitled to two representatives; every county, containing three times said ratio, shall be entitled to three representa-

tives: and so on, requiring after the first two, an entire ratio for each additional representative.

3. *Additional representatives*—When any county shall have a fraction above the ratio, so large, that being multiplied by five, the result will be equal to one or more ratios, additional representatives shall be apportioned for such ratios, among the several sessions of the decennial period, in the following manner: If there be only one ratio, a representative shall be allotted to the fifth session of the decennial period; if there are two ratios, a representative shall be allotted to the fourth and third session, respectively; if three, to the third, second, and first sessions, respectively; if four, to the fourth, third, second, and first sessions, respectively.

4. *Separation of counties*—Any county, forming with another county or counties, a representative district, during one decennial period, if it have acquired sufficient population at the next decennial period, shall be entitled to a separate representation, if there shall be left, in the district from which it shall have been separated, a population sufficient for a representative; but no such change shall be made, except at the regular decennial period for the apportionment of representatives.

5. *Annexing counties*—If, in fixing any subsequent ratio, a county, previously entitled to a separate representation, shall have less than the number required by the new ratio for a representative, such county shall be attached to the county adjoining it, having the least number of inhabitants; and the rep-

resentation of the district, so formed, shall be determined as herein provided.

6. *Senatorial ratio*—The ratio for a senator shall forever, hereafter, be ascertained, by dividing the whole population of the state by the number thirty-five.

7. *Senatorial districts*—The state is hereby divided into thirty-five senatorial districts, as follows: The county of Hamilton shall constitute the first senatorial district; the counties of Butler and Warren, the second; Montgomery and Preble, the third; Clermont and Brown, the fourth; Greene, Clinton, and Fayette, the fifth; Ross and Highland, the sixth; Adams, Pike, Scioto, and Jackson, the seventh; Lawrence, Gallia, Meigs, and Vinton, the eight; Athens, Hocking, and Fairfield, the ninth; Franklin and Pickaway, the tenth; Clark, Champaign, and Madison, the eleventh; Miami, Drake, and Shelby, the twelfth; Logan, Union, Marion, and Hardin, the thirteenth; Washington and Morgan, the fourteeth; Muskingum and Perry, the fifteenth; Delaware and Licking, the sixteenth; Knox and Morrow, the seventeenth; Coshocton and Tuscarawas, the eighteenth; Guernsey and Monroe, the nineteenth; Belmont and Harrison, the twentieth; Carroll and Stark, the twenty-first; Jefferson and Columbiana, the twenty-second; Trumbull and Mahoning, the twenty-third; Ashtabula, Lake, and Geauga, the twenty-fourth; Cuyahoga, the twenty-fifth; Portage and Summit, the twenty-sixth; Medina and Lorain the twenty-seventh; Wayne and Holmes, the twenty-eighth; Ashland and Richland, the twenty-ninth; Hur-

on, Erie, Sandusky, and Ottawa, the thirtieth; Seneca, Crawford, and Wyandot, the thirty-first; Mercer, Auglaize, Allen, Van Wert, Paulding, Defiance, and Williams, the thirty-second; and Hancock, Wood, Lucas, Fulton, Henry and Putnam, the thirty-third. For the first decennial period, after the adoption of this constitution, each of said districts shall be entitled to one senator, except the first district, which shall be entitled to three senators.

8. *Additional senators*—The same rules shall be applied, in apportioning the fractions of senatorial districts, and in annexing districts, which may hereafter have less than three-fourths of a senatorial ratio, as are applied to representative districts.

9. *Separate districts*—Any county forming part of a senatorial district, having acquired a population equal to a full senatorial ratio, shall be made a separate senatorial district, at any regular decennial apportionment, if a full senatorial ratio shall be left in the district from which it shall be taken.

10. *A permanent plan*—For the first ten years after the year one thousand eight hundred and fifty-one, the apportionment of representatives shall be as provided in the schedule, and no change shall ever be made in the principles of representation, as herein established, or, in the senatorial districts, except as above provided. All territory, belonging to a county at the time of any apportionment, shall, as to the right of representation and suffrage, remain an integral part thereof, during the decennial period.

11. *Commission to apportion senators and representatives*

—The governor, auditor, and secretary of state, or any two of them, shall, at least six months prior to the October election, in the year one thousand eight hundred and sixty-one, and, at each decennial period thereafter, ascertain and determine the ratio of representation, according to the decennial census, the number of representatives and senators each county or district shall be entitled to elect, and for what years, within the next ensuing ten years, and the governor shall cause the same to be published, in such manner as shall be directed by law.

JUDICIAL APPORTIONMENT

12. *Judicial districts*—For judicial purposes, the state shall be apportioned as follows:

The county of Hamilton shall constitute the first district, which shall not be subdivided; and the judges therein may hold separate courts or separate sittings of the same court, at the same time.

The counties of Butler, Preble, and Darke, shall constitute the first subdivision; Montgomery, Miami, and Champaign the second; and Warren, Clinton, Greene, and Clark, the third subdivision, of the second district; and, together, shall form such district.

The counties of Shelby, Auglaize, Allen, Hardin, Logan, Union, and Marion, shall constiute the first subdivision; Mercer, Van Wert, Putnam, Paulding, Defiance, Williams, Henry, and Fulton the second; and Wood, Seneca, Hancock, Wyandot, and Crawford, the third subdivision, of the third district; and, together, shall form such district.

The counties of Lucas, Ottawa, Sandusky, Erie,

and Huron shall constitute the first subdivision; Lorain, Medina, and Summit, the second; and the county of Cuyahoga the third subdivision, of the fourth district; and, together, shall form such district.

The counties of Clermont, Brown, and Adams, shall constitute the first subdivision; Highland, Ross, and Fayette, the second; and Pickaway, Franklin, and Madison, the third subdivision, of the fifth district; and, together, shall form such district.

The counties of Licking, Knox, and Delaware, shall constitute the first subdivision; Morrow, Richland, and Ashland, the second; and Wayne, Holmes, and Coshocton, the third subdivision, of the sixth district; and, together, shall form such district.

The counties of Fairfield, Perry, and Hocking, shall constitute the first subdivision; Jackson, Vinton, Pike, Scioto, and Lawrence, the second; and Gallia, Meigs, Athens, and Washington, the third subdivision, of the seventh district, and, together, shall form such district.

The counties of Muskingum and Morgan shall constitute the first subdivision; Guernsey, Belmont, and Monroe, the second; and Jefferson, Harrison, and Tuscarawas, the third subdivision, of the eighth district; and, together, shall form such district.

The counties of Stark, Carroll, and Columbiana shall constitute the first subdivision; Trumbull, Portage, and Mahoning, the second; and Geauga, Lake and Ashtabula, the third subdivision, of the ninth district, and, together, shall form such district.

13. *New counties*—The general assembly shall attach any new counties, that may hereafter be erected, to

such districts or subdivisions thereof as shall be most convenient.

ARTICLE XII—Finance and Taxation

1. *Poll tax forbidden*—The levying of taxes, by the poll, is grievous and oppressive; therefore, the general assembly shall never levy a poll tax, for county or state purposes.

2. *Taxable property and property exempt*—Laws shall be passed, taxing by a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also all real and personal property, according to its true value in money; but burying grounds, public school-houses, houses used exclusively for public worship, institutions of purely public charity, public property used exclusively for any public purpose, and personal property, to an amount not exceeding in value two hundred dollars, for each individual, may, by general laws, be exempt from taxation; but all such laws shall be subject to alteration or repeal; and the value of all property, so exempted, shall, from time to time, be ascertained and published, as may be directed by law.

3. *Property of banks*—The general assembly shall provide, by law, for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects, or dues, of every description (without deduction) of all banks, now existing, or hereafter created, and of all bankers, so that all property employed in banking shall always bear a burden of taxation, equal to that imposed on the property of individuals.

4. *Expenses of state*—The general assembly shall pro-

vide for raising revenue, sufficient to defray the expenses of the state, for each year, and also a sufficient sum to pay the interest on the state debt.

5. *Tax law*—No tax shall be levied, except in pursuance of law, and every law imposing a tax, shall state, distinctly, the object of the same, to which only it shall be applied.

6. *Debt*—The state shall never contract any debt for purposes of internal improvement.

ARTICLE XIII—Corporations

1. *Special acts forbidden*—The general assembly shall pass no special act conferring corporate powers.

2. *Corporations formed*—Corporations may be formed under general laws; but all such laws may, from time to time, be altered or repealed.

3. *Liability of stockholders*—Dues from corporations shall be secured, by such individual liability of the stockholders, and other means, as may be prescribed by law; but, in all cases, each stockholder shall be liable, over and above the stock by him or her owned, and any amount unpaid thereon, to a further sum at least equal in amount to such stock.

4. *Property of corporations*—The property of corporations, now existing or hereafter created, shall forever be subject to taxation, the same as the property of individuals.

5. *Compensation*—No right of way shall be appropriated to the use of any corporation, until full compensation therefor be first made in money, or first secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such

corporation; which compensation shall be ascertained by a jury of twelve men, in a court of record, as shall be prescribed by law.

6. *Cities, villages*—The general assembly shall provide for the organization of cities, and incorporated villages, by general laws, and restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent the abuse of such power.

7. *Referendum in banking laws*—No act of the general assembly, authorizing associations with banking powers, shall take effect until it shall be submitted to the people at the general election next succeeding the passage thereof, and be approved by a majority of all the electors voting at such election.

ARTICLE XIV—Jurisprudence

1. *Commissioners*—The general assembly, at its first session after the adoption of this constitution, shall provide for the appointment of three commissioners, and prescribe their tenure of office, compensation, and the mode of filling vacancies in said commission.

2. *Their duty*—The said commissioners shall revise, reform, simplify, and abridge the practice, pleadings, forms, and proceedings of the courts of record of this state; and, as far as practicable and expedient, shall provide for the abolition of the distinct forms of action at law, now in use, and for the administration of justice by a uniform mode of proceeding without reference to any distinction between law and equity.

3. *Their proceedings*—The proceedings of the commissioners shall, from time to time, be reported to the

general assembly, and be subject to the action of that body.

ARTICLE XV—Miscellaneous

1. *Capitol*—Columbus shall be the seat of government, until otherwise directed by law.

2. *Printing*—The printing of the laws, journals, bills, legislative documents, and papers for each branch of the general assembly, with the printing required for the executive and other departments of state, shall be let, on contract, to the lowest responsible bidder, by such executive officers, and in such manner, as shall be prescribed by law.

3. *Detailed statements of expenditures*—An accurate and detailed statement of the receipts and expenditures of the public money, the several amounts paid, to whom, and on what account, shall, from time to time, be published, as shall be prescribed by law.

4. *Eligibility to office*—No person shall be elected or appointed to any office in this state, unless he possess the qualifications of an elector.

5. *Duels prohibited*—No person who shall hereafter fight a duel, assist in the same as second, or send, accept, or knowingly carry, a challenge therefor, shall hold any office in this state.

6. *Lotteries forbidden*—Lotteries, and the sale of lottery tickets, for any purpose whatever, shall forever be prohibited in this state.

7. *Oath of office*—Every person chosen or appointed to any office under this state, before entering upon the discharge of its duties, shall take an oath or affirma-

tion, to support the constitution of the United States, and of this state, and also an oath of office.

8. *Bureau of statistics*—There may be established, in the secretary of state's office, a bureau of statistcs, under such regulations as may be prescribed by law.

9. *No license to sell liquors*—No license to traffic in intoxicating liquors shall hereafter be granted in this state; but the general assembly may by law, provide against evils resulting therefrom.

ARTICLE XVI—Amendments

1. *How made*—Either branch of the general assembly may propose amendments to this constitution; and, if the same shall be agreed to by three-fifths of the members elected to each house, such proposed amendments shall be entered on the journals, with the yeas and nays, and shall be published in at least one newspaper in each county of the state, where a newspaper is published, for six months preceding the next election for senators and representatives, at which time the same shall be submitted to the electors, for their approval or rejection; and if a majority of the electors, voting at such election, shall adopt such amendments, the same shall become a part of the constitution. When more than one amendment shall be submitted at the same time, they shall be so submitted as to en able the electors to vote on each amendment, separately.

2. *Constitutional convention*—Whenever two-thirds of the members elected to each branch of the general assembly, shall think it necessary to call a convention, to revise, amend, or change this constitution, they

shall recommend to the electors to vote, at the next election for members to the general assembly, for or against a convention; and if a majority of all of the electors, voting at said election, shall have voted for a convention, the general assembly shall, at their next session, provide, by law, for calling the same. The convention shall consist of as many members as the house of representatives, who shall be chosen in the same manner, and shall meet within three months after their election, for the purpose aforesaid.

3. *Shall a convention be held*—At the general election, to be held in the year one thousand eight hundred and seventy-one, and in each twentieth year thereafter, the question: "Shall there be a convention to revise, alter, or amend the constitution," shall be submitted to the electors of the state; and, in case a majority of all the electors, voting at such election, shall decide in favor of a convention, the general assembly, at its next session, shall provide by law, for the election of delegates, and the assembling of such convention, as is provided in the preceding section; but no amendment of this constitution, agreed upon by any convention assembled in pursuance of this article, shall take effect, until the same shall have been submitted to the electors of the state and adopted by a majority of those voting thereon.

SCHEDULE

1. All laws of this state, in force on the first day of September, one thousand eight hundred and fifty-one, not inconsistent with this constitution, shall continue in force, until amended, or repealed.

2. The first election for members of the general

assembly, under this constitution, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one.

3. The first election for governor, lieutenant-governor, auditor, treasurer, and secretary of state, and attorney-general, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one. The persons,holding said offices on the first day of September, one thousand eight hundred and fifty-one, shall continue therein, until the second Monday of January, one thousand eight hundred and fifty-two.

4. The first election for judges of the supreme court, courts of common pleas, and probate courts, and clerks of the courts of common pleas, shall be held on the second Tuesday of October, one thousand eight hundred and fifty-one, and the official term of said judges and clerks, so elected, shall commence on the second Monday of February, one thousand eight hundred and fifty-two. Judges and clerks of the courts of common pleas and supreme court, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office with their present powers and duties, until the second Monday in February, one thousand eight hundred and fifty-two. No suit or proceeding, pending in any of the courts of this state, shall be affected by the adoption, of this constitution.

5. The regsiter and receiver of the land office, directors of the penitentiary, directors of the benevolent institutions of the state, the state librarian, and all other officers, not otherwise provided for in this constitution, in office on the first day of September, one thous-

and eight hundred and fifty-one, shall continue in office, until their terms expire, respectively, unless the general assembly shall otherwise provide.

6. The superior and commercial courts of Cincinnati, and the superior court of Cleveland, shall remain, until otherwise provided by law, with their present powers and jurisdiction; and the judges and clerks of said courts, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office until the expiration of their terms of office, respectively, or, until otherwise provided by law; but neither of said courts shall continue after the second Monday of February, one thousand eight hundred and fifty-three; and no suits shall be commenced in said two first mentioned courts, after the second Monday of February, one thousand eight hundred and fifty-two, nor in said last mentioned court, after the second Monday in August, one thousand eight hundred and fifty-two; and all business in either of said courts, not disposed of within the time limited for their continuance as aforesaid, shall be transferred to the court of common pleas.

7. All county and township officers, and justices of the peace, in office on the first day of September, one thousand eight hundred and fifty-one, shall continue in office until their terms expire, respectively.

8. Vacancies in office, occurring after the first day of September, one thousand eight hundred and fifty-one, shall be filled, as is now prescribed by law, and until officers are elected or appointed, and qualified, under this constitution.

9. This constitution shall take effect on the first day

of September, one thousand eight hundred and fifty-one.

10. All officers shall continue in office, until their successors shall be chosen and qualified.

11. Suits pending in the supreme court in bank, shall be transferred to the supreme court provided for in this constitution, and be proceeded in according to law.

12. The district courts shall, in their respective counties, be the successors of the present supreme court; and all suits, prosecutions, judgments, records, and proceedings, pending and remaining in said supreme court, in the several counties of any district, shall be transferred to the respective district courts of such counties, and be proceeded in, as though no change had been made in said supreme court.

13. The said courts of common pleas, shall be the successors of the present courts of common pleas in the several counties, except as to probate jurisdiction; and all suits, prosecutions, proceedings, records and judgments, pending or being in said last mentioned courts, except as aforesaid, shall be transferred to the courts of common pleas created by this constitution, and proceeded in, as though the same had been therein instituted.

14. The probate courts provided for in this constitution, as to all matters within the jurisdiction conferred upon said courts, shall be the successors, in the several counties, of the present courts of common pleas; and the records, files and papers, business and proceedings, appertaining to said jurisdiction, shall be transferred

to said courts of probate, and be there proceeded in, according to law.

15. Until otherwise provided by law, elections for judges and clerks shall be held, and the poll-books returned, as is provided for governor, and the abstract therefrom, certified to the secretary of state, shall be by him opened, in the presence of the governor, who shall declare the result, and issue commissions to the persons elected.

16. Where two or more counties are joined in a senatorial, representative, or judicial district, the returns of election shall be sent to the county, having the largest population.

17. The foregoing constitution shall be submitted to the electors of the state, at an election to be held on the third Tuesday of June, one thousand eight hundred and fifty-one, in the several election districts of this state. The ballots at such election shall be written or printed as follows: Those in favor of the constitution, "New constitution, Yes;" those against the constitution, "New constitution, No." The polls at said election shall be opened between the hours of eight and ten o'clock A. M., and close at 6 o'clock P. M., and the said election shall be conducted, and the returns thereof made and certified, to the secretary of state, as provided by law for annual elections of state and county officers. Within twenty days after such election the secretary of state shall open the returns thereof, in the presence of the governor; and, if it shall appear that a majority of all the votes, cast at such election, are in favor of the constitution, the governor shall issue his proclamation, stating that

fact, and said constitution shall be the Constitution of the State of Ohio, and not otherwise.

The result of this election, excluding the returns of the two counties, Defiance and Auglaize, which were not received in the twenty days specified, was as follows:

"New Constitution, Yes."	125,564
"New Constitution, No."	109,276
Majority for New Constitution	16,288

18. At the time when the votes of the electors shall be taken for the adoption or rejection of this constitution the additional section, in the words following, to wit: "No license to traffic in intoxicating liquors shall hereafter be granted in this state; but the general assembly may, by law, provide against evils resulting therefrom," shall be separately submitted to the electors for adoption or rejection, in form following, to wit: A separate ballot may be given by every elector and deposited in a separate box. Upon the ballots given for said separate amendment shall be written or printed, or partly written and partly printed, the words, "License to sell intoxicating liquors, Yes;" and upon the ballots given against said amendment, in like manner, the words: "License to sell intoxicating liquors, No." If, at the said election, a majority of all the votes given for and against said amendment shall contain the words: "License to sell intoxicating liquors, No," then the said amendment shall be a separate section of article fifteen of the constitution.

This election resulted:

"License to sell intoxicating liquors, No"	113,237
"License to sell intoxicating liquors, Yes"	104,255
Majority against license	8,982

19. The apportionment for the house of representatives, during the first decennial period under this constitution, shall be as follows:

The counties of Adams, Allen, Athens, Auglaize, Carroll, Champaign, Clark, Clinton, Crawford, Darke, Delaware, Erie, Fayette, Gallia, Geauga, Green, Hancock, Harrison, Hocking, Holmes, Lake, Lawrence, Logan, Madison, Marion, Meigs, Morrow, Perry, Pickaway, Pike, Sandusky, Scioto, Shelby, and Union, shall, severally, be entitled to one representative, in each session of the decennial period.

The counties of Franklin, Licking, Montgomery, and Stark shall each be entitled to two representatives, in each session of the decennial period.

The counties of Ashtabula, Coshocton, Highland, Huron, Lorain, Mahoning, Medina, Miami, Portage, Seneca, Summit, and Warren, shall, severally, be entitled to one representative, in each session, and one additional representative in the fifth session of the decennial period.

The counties of Ashland, Brown, Butler, Clermont, Fairfield, Guernsey, Jefferson, Knox, Monroe, Morgan, Richland, Trumbull, Tuscarawas, and Washington, shall, severally, be entitled to one representative, in each session; and two additional representatives, one in the third and one in the fourth session of the decennial period.

The counties of Belmont, Columbiana, Ross, and Wayne, shall, severally, be entitled to one representative, in each session; and three additional representatives, one in the first, one in the second and one in the third session of the decennial period.